

Supreme Court of the United States

October Term, 1962

No. 58

**A. L. MECHLIN BARGE LINES, INC.,
ET AL, APPELLANTS,**

UNITED STATES, ET AL

No. 59

**BOARD OF TRADE OF THE CITY OF
CHICAGO, APPELLANT,**

UNITED STATES, ET AL

**APPEALS FROM THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS**

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Redirect examination.

By Mr. Murphy:

Q. Now—

A. Can I answer Mr. Hayes' question here he wanted to know about Exhibit 19?

Q. Yes.

A. As to the barge operators used in compiling our statement, the Mechling figures include Mechling Company and Marine Transit Company which I understand has been [fol. 154] absorbed by Mechling.

The page three statement about barge lines other than Mechling, they would be Blaskey, Inc., Mississippi Valley Barge and Ohio River Company.

By Mr. Murphy:

Q. Mr. Tascik, Mr. Hayes in cross examining you, questioned the fact that the rate from Kankakee applied via a circuitous route to New York through Paris, Danville and Indianapolis.

Can you explain how the routes from Chicago on the re-shipping rate applied through those stations?

Do routes from Chicago on the re-shipping rate apply through those stations?

A. They do, yes, in the same manner as they apply from Kankakee.

Q. Would those routes from Chicago be more circuitous than the direct routes to the east?

A. Yes, they naturally would be to some extent. Probably not as great as I have indicated in Exhibit 15, but they would be circuitous.

Q. Comparing the routes from Kankakee through those stations with the routes from Chicago through those stations to eastern destinations such as New York, which of the routes would be the more circuitous?

A. It would be from Chicago.

Q. Mr. Hayes questioned you about whether or not the [fol. 155] other eastern railroads had considered the effect

of this rate on their revenues. I ask you was this rate docketed with the rate committees?

A. Yes, it was.

Q. What rate committees?

A. Illinois Freight Association.

Q. Can you indicate what the names of the major railroads that belong to that committee are, sir?

A. Well—

Q. That is, major eastern railroads.

A. Practically every railroad that operates in the state of Illinois; among the western lines would be the C.B. & Q., the Rock Island and C. & N. W., and among the eastern lines would be the Wabash, the New York Central, the B. & O. and Nickel Plate.

Q. Would the Pennsylvania?

A. The Pennsylvania would belong to the committee, yes.

Q. Did those railroads have an opportunity to consider whether or not they would join in the rate?

A. They certainly did, and the rate is published as a joint rate.

Q. They concurred in the rate?

A. Yes, sir.

Q. Mr. Tascik, some indication was given to the effect that the barge transportation was to Chicago and you were [fol. 156] queried as to why you established the proportional rate to Kankakee to meet that barge transportation.

Will you explain how that affected you?

Mr. Hayes: May I have the question?

(Question read.)

Mr. Hayes: I thought the witness had made quite a speech on that. I don't know why we have to have it again.

By Mr. Murphy:

Q. Can you answer the question?

A. It was principally to meet the competition of the barge-rail route.

Do you want me to go into a recitation of the facts that led up to it?

Q. Not the facts that led up to it, but why did you make a proportional rate to Kankakee to meet the barge rate to Chicago. What factors affect the barge-rail movement that brought the barge competition to Kankakee?

A. I still don't understand your question.

Q. All right, I will withdraw the question.

By Mr. Bradford:

Q. Mr. Tascik, in answer to a question, you stated that corn via Chicago was for transit. Now again I would like to ask you if that corn on the five and a half cent territory is not for milling?

A. For milling in transit, sir.

Q. Wherever you mentioned transit in connection with these rates, you mean milling in transit?

[fol. 157] A. That is right, that is the way it is published in the tariff.

Q. The reason I am asking that, several times in the record you mentioned "transit."

Now something was said about the export rate and a comparison with the rates here under consideration. Now is this five and a half cent rate standing by itself a rate?

A. No, it is not.

Q. I will put it this way, isn't it part of a through rate?

A. That is right. It cannot be used without the addition of a through rate beyond, a re-shipping rate.

Q. So any comparison of the five and a half cent rate with some other rate, a local rate, is not comparing like with like, is it?

A. That is right.

Q. Is the proportional rate from Chicago to the east applied by other lines than the New York Central Railroad?

A. Yes.

Q. And any of this five and a half cent billing that ultimately arrives in Chicago can move out on any other line that participates in the proportional rate?

A. If there is routing, and there is, yes.

[fol. 158] Q. Now something was said about this 13 cent division you received between Kankakee and Chicago when

the movement is on a proportional rate on Kankakee. If you didn't publish this five and a half cent rate and get the grain in the box car, would you get 13 cents between Kankakee and Chicago on that grain?

Mr. Hayes: I can't hear the question.

Exam. Dahan: Read the question.

(Question read.)

The Witness: No, I would first have to have an initial movement from the country origin to Kankakee.

By Mr. Bradford:

Q. Is there any rate to the south from Chicago that routes via the New York Central Railroad and the Illinois Central at Kankakee? Does anybody publish rates by such a route?

A. Not to my knowledge.

Q. Isn't it true other Illinois lines have proposed reductions in the corn rates to Chicago to meet barge line competition?

A. Yes, there are several proposals filed.

Q. Do you know the present status of those proposals?

A. They are still pending before the committee.

Q. Now you were asked where the processors are located and you mentioned Kankakee, Indianapolis, Danville and Paris.

[fol. 159] Now isn't it true that corn can move to Indianapolis, Danville or Paris and move out as corn as long as it is transited at Chicago—at some other point, milled?

A. That is right. That is what I tried to bring out in my testimony. The transit point could be anywhere in official territory.

Q. You can transit in and out of corn as long as the ultimate transit is milling?

A. That is correct.

Q. And that permits a man other than the miller at any one of these points to buy corn and sell it to a processor, is that right?

A. That is correct.

Q. And get the benefit of the five and a half cent rate?

A. That is correct, subject to milling in transit as the tariff now stands.

Q. You mentioned a conference with General Foods regarding the five and a half cent rate and its application on whole corn—withdraw that.

You mentioned a conference with Chicago on the application on whole corn. Isn't it true that you also have a conference in Indianapolis on the same proposition?

A. Yes, sir, I did.

Q. And your answer to the Indianapolis is the same as it was to Chicago?

[fol. 160] A. That is correct.

Q. So you would consider making a proposal to have it apply to whole corn?

A. That is right.

Q. You still stand on that proposition?

A. Yes, I do.

Q. The only thing now that is holding it up is pending the decision in the case that is now before the Commission?

A. Well, that is what I would like to do is have it held up, but if Mr. Chartrand wants me to progress this prior to the disposition or decision in this case, I will be glad to file a proposal.

Q. Didn't Indianapolis agree to hold it up until after?

A. Yes, they did, and I think it is still advisable to hold it up until this case is decided.

Q. Can you see any difference in trucking grain from the farm to a river elevator and trucking grain from a railroad to a—from a farm to a railroad elevator?

A. I can't, no.

Q. Is it a necessary operation?

A. It is a necessary operation.

Mr. Bradford: That is all.

Recross examination.

By Mr. Legg:

Q. Mr. Tascik, do you tell me the direct rail mileage via [fol. 161] the New York Central from Chicago, Illinois to the destinations listed on your Exhibit 15—

A. They are available but I don't have them right here with me now.

Q. Would you supply them for the record?

Mr. Murphy: Mr. Examiner, those direct rail mileages are published in published tariffs. Now we have a number of requests here to furnish information today, and we have attempted to be cooperative, but I am afraid it is beyond the physical capacity of Mr. Tascik to furnish that so I think we will decline that.

Mr. Legg: Would counsel then stipulate with us that we could refer to the tariffs or to the Railway Guide and form those mileages and put them into the record?

The Witness: Not the Railway Guide.

Mr. Murphy: No; I think you can put them in with the proper tariff authority just as Mr. Tascik would have to obtain them. I am sure that if you want advice as to how to obtain them, he will be happy to tell you what tariffs to go to.

Mr. Legg: I will renew my question or request, then, for the information from Mr. Tascik and ask for a ruling.

Exam. Dahan: I am not going to direct him to furnish anything that he does not want to furnish. Now you have the tariffs available to you, you can make your own determination of the direct mileage if you want to present them in evidence through your own witness, or if you want to, we will incorporate them by reference, those tariffs which name the mileage, and you may determine the mileages yourself.

Mr. Legg: That will be satisfactory.

By Mr. Legg:

Q. Mr. Tascik, will you specify the tariffs from which we can determine these mileages?

A. Well, the New York Central mileages would be in the New York Central mileage tariff.

Q. What is the number of that?

A. I don't know, but it is available in our office. It is a public tariff filed, and if you don't have the mileage tariffs, you can come in there and check them out any way you want.

By the way, they are on this mileage authority, P & LE, N.Y.C., take them off of Exhibit 15. They are on there.

Q. I beg pardon?

A. The mileage tariffs are shown on Exhibit 15.

Q. ICC-LS-1536-NYC-16802 and 8515?

A. That is right.

Q. You have told us the B&O ICC 9227 also?

A. That is right. I will be bighearted, you can use our tariffs.

Exam. Dahan: Let me ask you this, what are these dis-[fol. 163] tances that are shown on Exhibit 15? Are they direct distances?

A. These are distances, your Honor, that move from Chicago via Kankakee, Illinois because the rate operates through Kankakee, contrasted with the distances from the West End Stations using the weighted average—the average weighted mileage of 38.3.

Exam. Dahan: What does he want the distance from?

The Witness: He wants the distance from Chicago.

Mr. Legg: Direct from Chicago.

Exam. Dahan: Oh, without going through Kankakee. You can get that from the tariffs listed in that exhibit.

The Witness: That is right.

By Mr. Legg:

Q. Mr. Tascik, one question. What are the railroads to the best of your knowledge that have made proposals to reduce corn gathering rates in the Illinois region?

A. Northwestern, Rock Island, and I believe the Alton has filed one or is going to file one, but there is about 3 or 4 railroads altogether.

Q. You say those proposals are pending before the committee? What committee is that?

A. The rate committee, Illinois Freight Association.

Q. How long have they been pending?

A. They are not my proposals so I don't know the exact date when they were filed.

[fol. 164] Q. Approximately?

A. Probably 2 or 3 months, four months.

Q. Do you know about what rate level they are seeking to establish?

A. I know what the proposed rates are, sir, if I had the proposal here, but you have got to bear in mind the distances involved and the characteristics of the movement.

I am not in position to speak for the other railroads on their level of rates they are proposing.

Q. Roughly, say from Dwight to Chicago via the G. M. & O., what would the rate be that has been proposed?

A. I don't know.

Exam. Dahan: I wonder why we're getting into this subject? If we did know what was proposed, it would mean very little; the proposals may not even come up before the Commission for decision. They may never be established.

So why go into it all here? We only want real evidence—it may be real, but we have too much pertinent evidence to be taking in the whole field.

Mr. Legg: I was only clarifying Mr. Bradford's question, your Honor. I am sorry.

Mr. Bradford: Your Honor, my questions showed the New York Central was doing the things the other railroads were doing to try to meet competition, that is all.

[fol. 165] Mr. Hayes: If that was the purpose of Mr. Bradford's question; it might be interesting to know what level of rates the other railroads considered to be necessary to meet competition from Dwight.

Exam. Dahan: Do you have any other questions?

Mr. Legg: I think not.

Exam. Dahan: Do you have any questions, Mr. Hayes.

Mr. Murphy: Now—

Mr. Hayes: Yes.

Mr. Murphy: This is recross examination. Are we going to go around twice on this?

Exam. Dahan: That is all I want to get is recross examination.

Mr. Hayes: This is strictly relevant to the cross examination and the cross examination only. I shall address myself to that.

Mr. Legg: If you want citations to all of my questions, I will give them to you on your questions on redirect.

By Mr. Hayes:

Q. The witness was cross examined about whole corn and products—

Mr. Murphy: Now, Mr. Examiner, this is not a question on redirect that I can see.

Exam. Dahan: That is what I expected. You say he was cross examined on it.

Mr. Hayes: He was, he was cross examined by another [fol. 166] interest after I had concluded.

Mr. Murphy: If we are going to have recross on the cross examination—

Exam. Dahan: What side are you on now?

Mr. Murphy: Well—

Mr. Hayes: There is more than one interest on each side of the table, Mr. Examiner.

Exam. Dahan: You mean you have questions which would be cross examination to the questions that were put by the Chicago Board of Trade, is that what you have?

Mr. Hayes: I have one question. Perhaps if I can ask it and it is specific, you can rule on it more readily.

Exam. Dahan: Very well. You may ask the question.

By Mr. Hayes:

Q. Is it a fact that this grain which you are trying to get away from the barge lines, whether it goes to Chicago by barge line or whether it goes to Chicago or to Kankakee by railroad, will go that far as whole grain?

A. Yes.

Mr. Hayes: That was all I had along that line, Mr. Examiner. Was that all right?

Exam. Dahan: That is okay.

Mr. Murphy: You didn't live up to your reputation.

Mr. Hayes: I have, I might say, other questions relating to the redirect examination of this witness by railroad [fol. 167] counsel.

By Mr. Hayes:

Q. These routes that you referred to, Mr. Tascik, from Chicago to the east as being more circuitous than the routes from Kankakee, were those routes from Chicago that you were referring to routes over the New York Central line only?

A. Yes, the movement was from Chicago to Kankakee, New York Central routes, yes.

Q. You referred to the submission of this rate proposal to the rate committee or rate bureau of what, was it the Illinois Traffic Association?

A. Illinois Freight Association.

Q. Illinois Freight Association, and do they act by majority vote?

A. Yes, they do.

Q. Was the vote unanimous?

A. Now what are you talking about, the whole corn we propose to file or the five and a half cent corn rate?

Q. I think my question is sufficiently, to quote the witness, direct and specific to deserve an answer on its own terms.

Mr. Murphy: Perhaps you could be helpful to him in that he obviously does not quite understand what you are talking about.

Mr. Hayes: I ask the witness to answer my question.

[fol. 168] Exam. Dahan: Is there an objection to this question?

Mr. Murphy: The witness indicated that he didn't understand the question and I respectfully request Mr. Hayes to rephrase it.

Mr. Hayes: Oh, he did.

Exam. Dahan: Do you understand the question?

The Witness: I can't—I don't know which rate he is talking about.

Exam. Dahan: You would like to have him rephrase it?

Mr. Murphy: Yes, your Honor.

Exam. Dahan: Would you please do so?

Mr. Hayes: I don't know how to rephrase it, Mr. Examiner. I have asked my question. I would like to know the answer.

Exam. Dahan: Well—

The Witness: Read the question, please.

(Question read.)

The Witness: The vote on the five and a half cents rate was an approved record. As you know, the voting is by ballot. I don't know if it was unanimous or not. It was approved, however.

By Mr. Hayes:

Q. You wouldn't know how the ballots ran on it?

A. That is right, except that the majority favored the establishment of the rate.

[fol. 169] Q. Or what railroads voted for it or what railroads voted against it?

A. No, I don't know.

Q. I think you stated in answer to Mr. Bradford's question on redirect examination that other railroads serving this origin area into Chicago had made proposals the last three or four months to reduce their rates to meet barge competition. How long ago did you make your proposal?

A. My proposal was filed some time in July 1956. I don't have the papers here with me.

Q. Since that time while your rate has been in effect, as you pointed out, these other lines haven't been getting any business into Chicago?

A. Not since—

Mr. Murphy: He didn't so state, as the record will so show.

Mr. Hayes: The record will show whether—

Mr. Murphy: He did not so state, and I object to the question.

Mr. Hayes: The record will show.

By Mr. Hayes:

Q. Wouldn't you say the proposals of these other railroads to reduce their rate might easily be to meet the New York Central's competition?

A. They specifically say they are meeting barge competition.

[fol. 170] Mr. Hayes: I am asking what you say.

The Witness: I am saying what the proposals state.

Mr. Hayes: I know you are. What do you say?

Mr. Murphy: Do you think the proposals are correct, Mr. Tascik?

The Witness: I think the proposals are absolutely correct.

Mr. Hayes: That is all.

Exam. Dahan: Mr. Freeman?

Mr. Freeman: I just have a couple of questions.

Recross examination.

By Mr. Freeman:

Q. I want to get clear on the record this proposal. Am I to understand that the first time this proposal of a five and a half cent rate came up before the IFA committee, that it was approved?

A. It was approved by the IFA executive committee.

Q. Yes, but that was on appeal, was it not?

A. On appeal to the executive committee.

Q. Now what happened at the initial stage, was it approved or disapproved?

A. It was either continued on the docket or disapproved. I think it must have been disapproved to be appealed.

Q. And was appealed?

A. To the executive committee, but that is usual procedure.

[fol. 171] Q. But it was disapproved the first time, is that correct?

A. That is right.

Mr. Freeman: I have no—oh, I have one with respect to Mr. Bradford's questions concerning the trucking to the river.

By Mr. Freeman:

Q. If I understand your testimony, and I want the record to be clear on this point, if I understand your testimony this rate was initiated because you saw grain being trucked from Dwight and other points on the New York Central to

the river and from points out there to the river, and you were trying to meet that competition?

A. That is right.

Mr. Freeman: That is all.

Mr. Chartrand: No questions.

OFFERS IN EVIDENCE

Exam. Dahan: Any objection to the receipt of exhibits 1 through 21 inclusive?

With no objection, they may be received.

(Applicant's Exhibits 1 to 21, Witness Tascik, were received in evidence.)

(Witness excused.)

Exam. Dahan: We will recess until 9:30 tomorrow morning.

(Whereupon, at 5:00 o'clock p.m., an adjournment was taken until Thursday, January 30, 1958, at 9:30 o'clock a.m.)

[fol. 174] PROCEEDINGS OF JANUARY 30, 1958

Exam. Dahan: Come to order, please. Are you ready?

Mr. Murphy: Yes, your Honor. I would like to call as our next witness Mr. Reynolds.

THOMAS E. REYNOLDS was sworn and testified as follows:

Direct examination.

By Mr. Murphy:

Q. Will you state your name?

A. Thomas E. Reynolds.

Q. What is your position and business address?

A. Division Superintendent, West and Western Divisions, The New York Central Railroad Company, LaSalle Street Station, 139 West Van Buren Street, Chicago 5, Illinois.

Q. How long have you been employed by the New York Central Railroad?

A. Eleven and one-half years.

Q. Please describe briefly your duties and responsibilities.

A. The territory which I supervise is outlined on my Exhibit No.—

Mr. Murphy: Mr. Examiner, may we have marked for identification the next exhibit which is a large blueprint map?

Exam. Dahan: It will be marked as Applicant's Exhibit No. 22.

[fol. 175] (Applicant's Exhibit 22, Wit. Reynolds, marked for identification.)

By Mr. Murphy:

Q. Will you proceed?

A. The territory which I supervise is outlined on my Exhibit No. 22 which is a detailed map of the West and Western Divisions. I am division superintendent in charge of transportation, maintenance of locomotives and cars, tracks and buildings, police and stores departments for the West and Western Divisions.

This territory extends from Chicago, Illinois through Elkhart, Indiana; Chicago through Niles, Michigan; Chicago to Danville, Illinois; South Bend, Indiana to Zearing, Illinois; East Gary, Indiana through Joliet, Illinois; and Niles, Michigan through Benton Harbor, Michigan.

Q. Is that portion of the New York Central System sometimes referred to as the Kankakee Belt shown on your Exhibit No. 22?

A. Yes, the Kankakee Belt is the line between South Bend and Zearing via Kankakee. It is a cut-off route around Chicago that avoids the congestion and difficult operating conditions in the Chicago Terminal area.

Q. Are you responsible for operations on the Kankakee Belt?

A. Yes.

[fol. 176] **Q.** Do you have a list of the grain elevators in Chicago, Illinois?

A. Yes, a list of grain elevators in Chicago, and the information as to the railroad serving each of the elevators is shown on my next exhibit which has been marked for identification, Exhibit No. 23.

Mr. Murphy: May we have it so marked?

Exam. Dahan: It may be. The list of elevators will be marked for identification as Exhibit No. 23.

(Applicant's Exhibit 23, W. Reynolds, marked for identification.)

By Mr. Murphy:

Q. Are you responsible for the furnishing of grain cars to the elevators on the West and Western Divisions?

A. Yes.

Q. What is the source of empties for loading at elevators in Chicago for line haul movement from Chicago via the New York Central?

A. These empties are supplied as requested by the grain elevators. These cars are furnished from various locations where cleaning tracks are in operation; namely, Elkhart Yard, Indiana; Englewood Yard, Illinois; and, at times, Kankakee Yard, Illinois.

This depends upon the flow of empties, the cleaning tracks capacity, and demands from these cleaning tracks. [fol. 177] The Elkhart operation is such that it is a central point for distribution of cars from the east. On orders these cars are sent to the point which will place the cars at the elevators.

Q. Mr. Reynolds, will you indicate where on the map we could find the Elkhart yard?

A. Yes, sir.

Q. That is Exhibit No. 22 that I referred to as the map?

A. Yes, on Exhibit 22 it is in the upper right hand corner immediately adjoining the borderline just below the Michigan-Indiana state line, just south of the Michigan-Indiana state line.

Q. Would you locate Englewood Yard for us?

A. Englewood Yard is the first station south of Chicago along Lake Michigan.

Q. And Kankakee Yard?

A. Kankakee is in the center of the map. It is west of the Illinois-Indiana border on the Kankakee Belt route which is the east-west route in the center of the map.

Q. Please describe the operation of supplying and placing cars for loading at elevators served by the New York Central in Chicago.

A. The cars for the elevators known as Columbia and Schwill are handled directly from Englewood Yard, with other cars for these elevators and other industries by a [fol. 178] yard crew to the East Chicago Yard.

There the empty grain cars are switched out by this yard engine and subsequently placed by this engine in the elevators. Cars for Elevator J and the Kensington elevator are delivered by the New York Central crews to the Indiana Harbor Belt Railroad, are switched by this Belt Line into a Kensington group. These empties, mixed with other cars for Kensington Yard, are hauled from Gibson Yard to Kensington.

The empties are switched out and placed at these elevators for loading.

Q. Please describe the operation of supplying cars for New York Central movement from elevators in Chicago served by the Belt Railroads.

A. This is rather a complex move in this congested Chicago Switching District, but I will attempt to explain it to the best of my ability.

Cars for placement are handled as follows:

(1) Cars going to elevators on the Indiana Harbor Belt Railroad are delivered in a road train from Elkhart or Kankakee to Gibson Yard.

These cars are necessarily mixed with other loads and empties. They are humped at Bigson for the designated areas.

The Indiana Harbor Belt Railroad have employed [fol. 179] pullers to the various yards where the empty grain cars are delivered. These cars are then placed at the elevators for loading.

Cars originating at the Englewood wash track are handled by puller crew from Englewood to the Indiana Harbor Elevator Yard.

The grain cars are then taken from the Elevator Yard to the interchange yard with the Indiana Harbor Belt, which is called Michigan Avenue Yard. These cars are then handled by an Indiana Harbor Belt crew from Michigan Avenue Yard to Gibson Yard where they are humped into the designated group track for handling by their puller crews to the various yards serving the individual elevators. In each case it requires four different crews to handle the empty cars for placement.

(2) Cars for the Belt Railway Company of Chicago are handled in road trains from Elkhart to Englewood Yard. There they are switched out of that train and handled by a yard crew with other cars for the Belt Railway Company of Chicago to our interchange tracks with the Belt Railway Company at their so-called Jeffery Avenue Yard at South Chicago.

From there the Belt Railway Company must handle them to the elevator. How many times the Belt Railway Company has to handle or re-handle these cars, I do not know [fol. 180] as I am not fully acquainted with their operation.

In addition to these cars from Elkhart, there will be cars from the Englewood Yard cleaning track which will also be delivered to the Belt Railway Company along with cars from Elkhart.

Cars from Elkhart require three crews and those from the Englewood cleaning track two New York Central crews to handle to the Belt Railway Company for their further handling.

(3) Cars for the elevators on the Chicago River & Indiana Railroad Company from Elkhart are handled in road trains to Englewood. There they are switched out by a yard crew and delivered to the Chicago River & Indiana. The Chicago River & Indiana switch crews then must handle them to the elevators for placement and again I am not acquainted as to how many times their crews have to re-handle before placement at the elevators. Again, cars from the Englewood wash track will make a similar move. These cars require three New York Central crews handling same for delivery to the Chicago River & Indiana.

(4) Cars out of Elkhart for the Baltimore & Ohio Chicago Terminal Railroad are handled in road trains from Elkhart to Englewood. These cars are switched out and handled by the puller crews to Indiana Harbor Elevator [fol. 181] Yard. There the cars are taken to the Baltimore & Ohio Chicago Terminal railroad interchange tracks and delivered to them. They in turn handle the cars for placement at the elevators.

I am not acquainted with their operations after they are delivered to the interchange track. Here four New York Central crews are required to effect the interchange with the Baltimore & Ohio Chicago Terminal Railroad.

Q. Please describe the operation of supplying cars for New York Central movement from elevators in Chicago served by the Rock Island.

A. Cars from the Elkhart wash track are handled by a road train to Englewood where they are switched out by a yard crew and then a puller crew takes these cars, and cars from the Englewood wash track, to our interchange track with the Rock Island at their South Chicago Yard.

There the Rock Island handles these cars to the elevators, and I am not acquainted with their operation after we have delivered the cars to them.

Cars delivered for loading at the Calumet Port Authority area, which is switched by the Rock Island, are handled in road haul movement from Elkhart to Gibson yard where they are switched by an Indiana Harbor Belt crew into the Kensington Yard connection track.

[fol. 182] The Kensington Yard engine hauls these cars then from Gibson to Kensington. There they are switched out from other cars destined Kensington and delivered to the Rock Island at the interchange track at 115th Street.

These are mixed with other cars for the Rock Island. The empty grain cars are switched out by the Rock Island and taken to the Port Authority Yard and then subsequently placed at the elevators at the Port Authority.

To effect this placement, it takes respectively three crews in the first case and four in case of the Port Authority.

Q. Please describe how loaded cars of grain are handled from elevators served by the New York Central at Chicago to elevators at Kankakee, Illinois.

A. Cars loaded at Indiana Harbor Elevator Yard are switched for road haul movement at the elevator yard. These cars are picked up by a road crew operating on the Danville subdivision.

This road crew sets these cars out at Schneider, Indiana. These cars are mixed with other Kankakee Subdivision cars. At Schneider, Kankakee Subdivision road crews traveling west to Kankakee will switch out cars destined Kankakee and take them in their road train to the west yard at Kankakee.

Since these cars are mixed with other Kankakee cars, [fol. 183] they are switched from the road train to the grain inspection track. Once they have been inspected, they are then handled to the elevator at Kankakee.

Cars originating at the Kensington elevator and the Calumet Port Authority elevators are handled by the Kensington Yard engine from Kensington to Gibson. There they are switched into the designated track for movement from Gibson by a Danville Subdivision crew to be set out at Schneider.

From Schneider the handling is the same as previously described. This requires four different crews handling the same car.

Q. Please describe how carloads of grain from elevators located on the Rock Island are handled by the New York Central to Kankakee.

A. Previously we described how the cars are handled from the Kensington area, which included the Rock Island delivery of cars from the Port Authority. However, there are other elevators located on the Rock Island. These loaded cars are delivered by the Rock Island to our Englewood Yard.

There they are switched for movement by a Danville Subdivision road crew from Englewood to Schneider, where they are set out and the handling by a Kankakee Subdivision crew is the same as previously stated.
[fol. 184] Again four crews handled the car or cars.

Q. How do you handle loaded cars of grain received from Belt Railroads at Chicago for delivery at Kankakee?

A. The Indiana Harbor Belt Railroad switches cars for Kankakee delivery into their designated tracks at Gibson

Yard where the cars are picked up by a Danville Subdivision road crew and again are set out at Schneider mixed with other cars for Kankakee, and the handling at Schneider is as previously described.

Cars for—cars from the Baltimore & Ohio Chicago Terminal Railroad are delivered by that railroad to the New York Central on the designated interchange track at Whiting. There they are picked up by the Indiana Harbor Elevator Yard crew and taken to the Elevator Yard where they are switched out for movement by a Danville Subdivision crew to Schneider and on to Kankakee as previously described.

A minimum of four crews handled these cars.

Q. How do you handle carloads of corn originated at elevators in Chicago for movement to Danville, Illinois, Mr. Reynolds?

A. Once these cars for Danville are received at either Englewood Yard, Indiana Harbor Elevator Yard or Gibson Yard, they are switched for movement and picked up by a road crew operating on the Danville subdivision and are [fol. 185] handled directly by this road crew from one or more of these yards to the New York Central Lyons Yard at Danville, Illinois.

There the cars are switched for placement by a yard crew at Lyons Yard. This may necessitate a re-handling move before the cars arrive at the elevator depending upon the location of this elevator in Danville.

Q. How do you handle carloads of corn originated at elevators in Chicago for movement to Indianapolis, Indiana?

A. The cars for Indianapolis are handled by a Danville Subdivision crew to the interchange tracks at Scheff, Indiana.

This is an interchange with the New York Central's Southern District territory which includes Indianapolis. These cars are picked up by a Southern District road crew and handled to Indianapolis where they are switched by a yard crew for rehandling to the designated elevator at Indianapolis.

The number of moves at Indianapolis are not known by me.

Q. Describe the movement of corn originated in Chicago for movement to Paris, Illinois.

A. Once again these cars are handled from Chicago to Lyons Yard by a Danville Subdivision crew. They are then [fol. 186] reswitched into the designated tracks for movement from Lyons Yard to Paris, Illinois. There they are reswitched and handled by yard crew at Paris for placement at the elevator or interchanged to the railroads serving that elevator.

Q. What is the source of empty cars for loading of grain at stations west of Kankakee on what has been described as the Kankakee Belt?

A. Cars are accumulated at Kankakee from the connecting railroads all along the Kankakee Belt in that we have local service daily between Kankakee and South Bend, which is commonly called the east end, and local service on the west end.

The major points of receiving cars are Zearing, Illinois from the Chicago, Burlington & Quincy, and Chicago & Northwestern; Depue with the Rock Island; Streator with the Santa Fe; the Chicago Burlington & Quincy, and the Gulf, Mobile & Ohio.

I mention particularly Zearing and Streator in that cars arriving at these locations are commodity inspected at that time and any OK grain cars in the delivery can then be placed by the crews picking them up on the west and on their eastbound movement spotting them at the elevator enroute.

This eliminates switching operation in Kankakee Yard. [fol. 187] The cars required to be cleaned are handled to Kankakee, placed on the cleaning track, and then returned to the elevators on the west end by one of the two trains operating daily out of Kankakee.

If this supply does not meet the demand, we have direct train service from Elkhart Yard to Kankakee where these cars can then be switched at Kankakee for movement west to be placed at the elevators.

This is a faster and more economical arrangement than having to pick up the cars at Schneider as was previously described.

Q. Describe the operation of supplying cars for loading of corn at elevators west of Kankakee.

A. The local agent handling the elevator places orders for cars with the car distributor at Kankakee.

The car distributor then gives the order to the conductor on the road train serving that area. Cars which are commodity inspected at Zearing and/or Streator and found to be OK for grain are available for placement that day.

In addition, the local agents at stations on the west end of the Kankakee Belt inspect the cars made empty at their station and orders OK grain cars placed at the elevator for loading or reports same to the car distributor for his handling with the conductor.

[fol. 188] Another method of obtaining grain cars is that the conductor and crews on the west end, due to their experience with grain loading, can ascertain whether a car they pick up at a non-agency station is OK for grain, and, if so, they will spot that car at one of the elevators and report same to the car distributors.

If this supply is not sufficient, it is supplemented with cars from the Kankakee wash track.

Q. Do you use system cars or foreign cars for the corn movement on the Kankakee Belt?

A. Primarily it is system equipment. There is a great deal of our equipment that is just in shuttle service between the elevators on the west end and Kankakee and returning in a matter of days back for another load.

Also the equipment that we receive on the west end from the other railroads is New York Central equipment being returned home, and that again is spotted.

So it is system equipment primarily.

Q. Describe the operation of supplying cars for loading of corn at elevators west of Kankakee.

A. The local agent handling the elevator places orders for cars with the car distributor at Kankakee. The car distributor then gives the order to the conductor on the road train serving that area.

Cars which are commodity inspected at Zearing and/or [fol. 189] Streator and found to be OK for grain are available for placement that day.

In addition, the local agents at stations on the west end of the Kankakee Belt inspect the cars made empty at their station and orders OK grain cars—

Q. Describe the train service on the Kankakee Belt between Zearing and Kankakee?

A. There are two local trains serving this area. One is known as the Streator Turn. This train is out of Kankakee and does local work between Kankakee and Streator in each direction of its run.

The other local train is called Train 91-92. This train operates out of Kankakee daily and does work between Streator and Zearing, Illinois, in each direction.

These trains place empties on their westbound movement and pick up loads on their eastbound movement.

Q. Do the Streator and Zearing Turns spot empties in the morning and pick up loads on the same cars on the return trip in the evening?

A. Quite often, yes.

Q. How do you handle carloads of corn originated at elevators west of Kankakee to elevators at Kankakee?

A. The cars are picked up by one of the two local crews previously described and taken to the west yard at Kankakee where they are switched from their train directly [fol. 190] into the grain inspection track. This is a separate track in Kankakee Yard.

After inspection, the cars are handled by a yard crew to the processing point.

Q. Is that grain inspection track that you refer to the same track that the cars are placed on in the movement from Schneider to Kankakee if they are coming from Chicago?

A. Yes.

Q. How do you handle carloads of corn originated west of Kankakee to Indianapolis, Indiana?

A. The local crew bring these cars into Kankakee where they are switched to their designated tracks for road haul movement by an eastbound crew working east of Kankakee.

This is normally Train No. 94, which train sets the cars out at Schneider, Indiana. There they are picked up by a Danville Subdivision crew and placed with other cars to be set out at Sheff.

There they are picked up by a Southern District crew and handled by it from Sheff to Indianapolis.

Q. Do you handle carloads of corn originated west of Kankakee to Danville, Illinois?

A. Yes. These cars are brought into Kankakee and switched for movement by a Kankakee eastbound train to [fol. 191] be set out at Schneider, Indiana, where they are then picked up by a Danville Subdivision crew and handled directly to Lyons Yard at Danville, Illinois.

Q. How do you handle carloads of corn originated west of Kankakee to Paris, Illinois?

A. These cars are handled from the west end to Kankakee West Yard where they are switched for movement by a road crew and are set out with other cars for Danville at Schneider, Indiana.

They are picked up there by a Danville Subdivision crew and handled to Lyons Yard. There they are re-switched to the designated tracks for movement from Lyons Yard to Paris by another road crew.

Q. Mr. Reynolds, with your knowledge of the New York Central operations in Chicago, and on the Kankakee Belt, can you state whether the operation of originating corn at stations west of Kankakee for movement to Kankakee would be more or less expensive than the operation of originating corn at Chicago for movement to Kankakee?

A. The empties required for loading of corn originating on the Kankakee Belt are handled in road haul service and switch service at the local elevators by the train crews now performing the service along our line between Kankakee and Zeasing, which train service we would maintain even if we were not handling corn from the local.

[fol. 192] However, on corn originated at Chicago, there are numerous inter-train, intra-train and interchange switches involved, all of which make that a more difficult and costly operation than the Kankakee Belt movement.

Therefore, the Kankakee Belt movement is less expensive.

Q. What is the relative situation on movements from Chicago or Kankakee Belt elevators to Danville?

A. The operation from Chicago to Danville is a more difficult and costly operation than the movement from Kankakee

Belt stations to Danville.

Q. Is the same situation true on shipments to Indianapolis, Indiana and Paris, Illinois?

A. Yes.

Q. Do you have any records showing the supply of grain cars available at Kankakee?

A. Yes.

Mr. Murphy: Your Honor, may we have this marked for identification?

Exam. Dahan: Yes. This will be marked as Exhibit No. 24.

(Applicant's Exhibit 24, Wit. Reynolds, marked for identification.)

By Mr. Murphy:

Q. Do you have any records showing the supply of grain cars available at Kankakee?

[fol. 193] A. Yes, I have a summary for the period August 30, 1957 through December 31, 1957 with a recapitulation which is my Exhibit 24. The fact is, we had so many box cars at Kankakee during that period that we were required to move them to other points on our line for storage.

Q. Mr. Reynolds, has any consideration been given to abandoning a portion of the Kankakee Belt Line?

A. Yes, there was, about three years ago. There was a serious study made as to the abandonment of the portions west of Streator due to very light business.

Mr. Murphy: Thank you, Mr. Reynolds.

The witness is available for cross examination.

Exam. Dahan: Do you have any questions, Mr. Bradford?

Mr. Bradford: No questions.

Mr. Legg: I have some.

Cross examination.

By Mr. Legg:

Q. Mr. Reynolds, do the trains from Kankakee west to Streator or to Zearing keep regular schedules?

A. Yes.

Q. Could you give the times of those schedules then?

A. The Streator turn is called at Kankakee for 11:00 a.m., that is an assigned crew, and due to labor agreements, we are required to have a designated time.

Train 92, I am afraid I can't give you that schedule, it is not an assigned crew, and it is called when the train is [fol. 194] ready, but it is normally in the evening sometime.

Q. Does the train to Zearing make switches or pick-ups at stations west between Kankakee and Streator?

A. At times, yes, sir.

Q. At times, and the Streator Turn train also makes switches and pick-ups at stations between Streator and Kankakee?

A. Oh, definitely, yes.

Q. Is the Streator Turn train a train used also for transportation of interchange traffic between other railroads?

A. Both trains are, yes.

Q. Both trains are?

A. Yes.

Q. You say the yard crew is on call at 11:00 o'clock for the Streator train, is that it?

A. Yes.

Q. How nearly will the train leave after 11:00 o'clock ordinarily? How regular is that?

A. We attempt to maintain that schedule. We have a connection coming from Elkhart which at times might hold it up.

Q. Do you have any idea how regularly departure has been in fact?

A. I would say that it is better than 50 per cent.

Q. Does the train sometimes leave as late as three o'clock from Kankakee?

[fol. 195] A. Yes.

Q. About what time would it get into Streator, then? That was 3:00 p.m. you said?

A. Yes.

Q. Strike my last question.

Does it leave sometimes later than 3:00 o'clock from Kankakee?

A. Due to some disruptions of service, it might, yes; I wouldn't say that after 3:00 o'clock it was a usual condition that would cause it.

Q. Up to 3:00 o'clock it might happen more or less frequently; though, that the train would leave—

A. I would rather go back to my original statement that it is, for on time departure from Kankakee, better than 50 per cent. I don't recall specific cases.

Q. You do not have any set time for the train to Zearing to leave Kankakee?

A. We are attempting to make our interchange with other railroads prior to midnight; therefore, that is a requirement that necessitates its leaving in the evening, and we like to have those cars on to the other roads before midnight, and that is the only requirement that we have on it.

Q. Do the Streator turn trains carry cars destined to Zearing and leave them on the tracks at Zearing or at [fol. 196] Streator pick-up by a later train?

A. I couldn't say.

Q. Does it ever happen that any of the trains skip a day, they just don't run a day?

A. Disruption of service happens; it could happen.

Q. Are these trains scheduled to run Saturdays and Sundays?

A. One of them is, yes.

Q. Which one?

A. The Zearing Turn. The Streator Turn I am not sure of, to tell you the truth.

Q. Would the Streator train run five days a week, then?

A. I am positive that it is running at least six. I am not sure about the 7th.

Q. How frequently did these trains run before the Kankakee Belt's five cent rate was put in effect?

A. The same. That is the great advantage to it is that we had to maintain the service out there if we are going to have any type of service, and they—this helped the trains a great deal at no extra cost.

Q. About how long is the run from Kankakee to Streator and how long is the run from Kankakee to Zearing?

A. The crew going to Streator will make a round trip and do their work in 8 to 10 hours. The train going to Zearing will take, due to the long mileage that it has to run, 12 [fol. 197] to 16 hours.

Q. Does the same crew make the round trip for each train?

A. Yes.

Q. Do you know about how long your running time was before the 5 cent rate went into effect?

A. I would say there isn't too much difference. Naturally there is going to be some because of the work en route.

Q. What is the base number of hours that your crews are supposed to work during the day?

A. A crew who has been on duty 16 hours is required by law to tie up at the point where they have been on duty 16 hours.

Q. What is the basis for that? What is the basis for their pay?

A. It is 8 hours or a hundred miles is a day's pay, and that is actual mileage run.

Q. How often do you get OK inspected cars at Streator? What percentage of your total cars used on the Kankakee Belt are derived from that source?

A. I don't have any figures available.

Q. Would you have any idea of whether it was a large percentage or a small percentage?

A. I am afraid I wouldn't even want to guess on that one; I am sorry.

[fol. 198] Q. How often are cars made empty at Kankakee Belt stations which are OK inspected?

A. On the west end it is very light because there is no appreciable amount of loaded movement out there.

The east end—

Q. Excuse me. Is the west end all that portion west of Kankakee?

A. Yes, I am sorry.

Q. That is all we are concerned about.

A. We do derive cars from the east end.

Q. Do you get OK inspected cars from Zearing, too, at times?

A. Yes.

Q. About what percentage of your cars are derived from that source?

A. Of the total cars?

Q. Yes.

A. It would be very light.

Q. Are there any other interchange points on the Kankakee Belt west end from which you might derive OK inspected cars?

A. Oh, yes.

Q. What are they?

A. OK inspected?

Q. Yes.

[fol. 199] A. I am sorry, no, just Streator and Zearing.

Q. Just Streator and Zearing?

A. By OK inspection, I am talking, or you are talking about a car inspector actually putting a tag on the car. At other interchanges the conductor will look over the cars and if he finds any good grain cars in them, why then he will place them, but that is not in the terminology of an operating man an OK grain, and as to those, they do occur frequently.

Q. Is there any risk of liability for loss or damage from the conductors making the placement without having an OK inspection?

A. I don't know; I couldn't say.

Q. About how frequently do you spot cars on the west end of the Kankakee Belt in the morning and pick them up in the evening with respect to corn at these elevators?

A. I wouldn't care to guess.

Q. Would it be a very small percentage of the total number of cars or a rather large one?

A. I couldn't say.

Q. You couldn't answer?

A. No.

Q. Turning to your Exhibit 24, are the captions "Empties off wash track, from General Foods and Borden's, from yard inspection and Off Rip Track" designed to indicate the [fol. 200] sources from which you derive cars?

A. Those are some of them, yes, sir. This report shows the cars available at Kankakee for placement at any location we do desire to distribute them.

Q. Is it possible that a car at General Foods on September 3rd would be listed as an empty off wash track on September 4th or in some such sequence as that?

A. Depending on the car, if it had to go to the wash track, yes.

Q. This is merely a listing of cars at these various points on the day specified?

A. Correct.

Q. And there may be movement from one of these points to one of the other points stated in the exhibit on successive dates?

A. One thing, once the car is a grain car, then it would not necessarily have to go on to the wash track because it is already OK for grain. It would be available that day for loading. It wouldn't show off of the wash track the next day because it didn't go on the wash track.

If it was a car that was not fit for grain at General Foods, it would not show under this General Foods column but then it might appear the next day off of the wash track.

I am afraid that I jumped my answer to your other question a little too soon. I am sorry if I misled you.

Do you see what I mean?

Q. I understand that.

Does an empty off the wash track have to go to yard inspection or does it come from yard inspection to the wash track?

A. The cars do not have to go back from the wash track into yard inspection, no; they are commodity inspected. A car that has not previously been commodity inspected anywhere will be commodity inspected on the wash track.

It is a little confusing in that the time element of inspecting cars out in the yard at Kankakee due to physical characteristics is such that empty cars are put over the wash first, and when they have not been commodity inspected previously.

I am afraid I have confused you on that one.

Q. Yes, you have.

A. A car that comes into Kankakee and has been commodity inspected goes directly into the designated track, whether it is to go out to the west end of the line or somewhere else for loading:

A car that comes into Kankakee that is not commodity inspected goes to the wash track.

Q. And would be inspected at the wash track?

A. Yes.

[fol. 202] Q. It would not then go on to the yard inspection track?

A. No. Well, it is on the track in the yard first and it is not inspected until it gets on the wash.

Q. Is the wash track the same as your yard inspection track?

A. No.

Q. Do you have yard inspections apart from inspections on the wash track?

A. Yes. You see, every train that goes out of the yard had an inspection. Every train that goes out of the yard has to be inspected for the safety appliances, proper piston travel, for the air brakes on the train, and in my terminology, that is an inspection on the inspection track in the yard. It is not necessarily just for commodity inspection.

This column which says "From yard inspection" is cars that are out in the body of the yard which is the switch yard and are OK'd for grain right out there rather than going in on to the wash.

Q. What is the rip track?

A. That is repair; that is a slang expression for repair, so it shouldn't have been used.

That is another track away from the wash where cars are repaired, and at that time they are also commodity inspected, upgraded, OK'd for certain commodities.

[fol. 203] Q. You do not move them off the rip track, then, to yard inspection or off the rip track to the west track?

A. Not the cars that are shown on this report.

Q. Not the cars on this report?

A. No.

Q. Mr. Reynolds, so that I can have this clarified, would you explain how cars are handled when they come into the yard as to who makes the decision as to whether they need to go to the repair track or the yard inspection, the wash track, and how they finally get into a train that is made up for movement?

A. Prior to the train's arrival, if the train comes from Elkhart or if they are cars from Englewood that are set

out at Schneider, there is a teletype consist sent on that whole train.

If the cars have been OK'd for grain at one of those yards, then opposite the car number it says "Ok for Grain."

So they know they have these OK cars coming in.

Once the train arrives, why the engine is detached, the caboose is detached, the switch list is prepared on that train, cars are taken from both ends on to the switching leads and switched according to their designation.

A car or any cars that are carded "OK for Grain" or they knew were OK for grain from the teletype are switched into the designated tracks.

[fol. 204] Cars that come in with no commodity inspection on them are switched to another designated track. Those cars there are then taken to the wash track where they are washed and commodity inspected.

Once the cars that did not have to go to the wash track are assembled with cars that have come off of the wash track, say, the previous eight hours, they are assembled in the train in whichever direction it is to go.

Once the train is completed, it is grouped, it is what we call turned over to the car inspectors. At that time the car inspectors at each end of the track blue flag the track, that is, no engine can go in and couple those cars while the car inspectors are doing their work.

They go through and couple the air, and at times, depending on the train or where it is to go, they will oil cars, they make their physical inspection of the cars.

The train is put to air and the air test is made.

The train of course in the meantime has been ordered, the road crew reports, the engine is put on the head end of the train, the caboose on the rear. The terminal air tests are made and the train departs with their cars properly grouped for setting out at the stations en route.

If a car in the meantime in that train is found where the piston valve is not—where the piston travel is not [fol. 205] correct and cannot be corrected there in the yard, or they may find that a grab iron is bent or some other defect on the car, it will then be bad ordered and taken by the blue flag.

The blue flag is lifted from both ends, a yard crew goes in and puts or pulls that car out, sets it out on another track, goes back and recouples the train so it can move, and at a later time that car is taken to what we called here the rip track and it is repaired.

Now also there would be empty cars that arrive that will be found in the switching to be bad ordered, or in switching someone will observe something on the car, and they will call to the car inspector and he will tag that car bad order, and then it will go to the rip track, and at that time, while it is being repaired, the car is also worked on for upgrading if it needs a couple of boards, something similar to that, to make it an OK car.

That is the way it is handled and that is the way we get these off the rip track OK.

Q. Mr. Reynolds, which interchanges are served by each of these two trains that you discussed this morning?

A. The Streator Turn leaving Kankakee will set cars out on to the Wabash, the G.M. & O., the C.B. & Q., and the Santa Fe.

[fol. 206] Q. And at Streator?

A. At Streator, and the Wabash, of course, which is at Reddick.

On occasion there are cars routed Dwight for the G.M. & O. and they would be set out there.

The Zearing Train, the Zearing Turn or Train 9-92 will take cars normally beyond Streator if there is a rush car or a car that is missed in the connections at Reddick or Dwight, he would take those also.

After he goes by Streator, he will work at Lostant with the I.C., go on to Depue with the Rock Island, set out cars at Howe for the railroad that serves the zinc works.

He will take cars to Zearing for the C.B. & Q., and if there are any cars for the North Western, he takes those also, and the Milwaukee. The latter two are at Ladd.

Q. Do you have the same interchange of traffic on the trains coming east that you have on the cars going west?

A. Now, they are normally set out to the railroads going west and picked up on their return.

Mr. Legg: I have no further questions. Thank you.

Cross examination.

By Mr. Freeman:

Q. Did you say, sir, would your Streator Turn stop at Dwight, for example?

[fol. 207] A. Yes.

Q. Would you describe the interchange operation and the switch operation to the elevator at Dwight?

A. The interchange at Dwight is in the northwest quadrant. A train pulls across the G.M.&O. and shoves the cars in on the interchange track.

Q. Just a minute. The train does what?

A. Pulls across the G.M. & O. tracks and then shoves the train in on the interchange track.

Q. You have an interchange track with the G.M. & O. Which crosses at Dwight?

A. Yes.

Q. Let's assume that you have a car that is to be interchanged with the G.M. & O., and you have a car to be set out, either an empty to be set out at the Dwight elevator or a load to be picked up, will you describe that operation at the Dwight elevator?

A. The Dwight elevator, and I am sure that I have the right one, sits on the—is in the southwest quadrant.

The switch leading to that is at the east end of the elevator. Therefore, the car has to be what we call dropped into the track, the edge is on the—the engine is on the run, and the car is cut off, the engine goes by the switch, and the car is put in there, and then he goes back and places it.

[fol. 208] Q. This is a separate and distinct operation from your interchange operation with the G.M. & O.?

A. Yes.

Q. Now is that a typical situation of your interchanges and your set-outs and pickups up and down the Kankakee Belt?

A. Yes.

Q. Am I to understand from your testimony that there are only two trains a day of any kind that run over the Kankakee Belt?

A. Yes.

Mr. Murphy: You are referring to the west end, are you?

Mr. Freeman: I am referring to from Kankakee to Zea-
ing.

The Witness: Yes. There is one other train that runs very occasionally that I am not permitted to discuss here that does no other work on the line but is special duty. It is a special train.

Q. What do you mean, a "special train"?

A. I am sorry, I can't go any further. I do not wish to perjure myself to say that is the only—

Mr. Murphy: Off the record.

(Discussion off the record.)

Exam. Dahan: On the record.

The Witness: I didn't care to perjure myself, as I say, [fol. 209] that that is the only two trains.

By Mr. Freeman:

Q. How long have you had merely the two trains on the Kankakee Belt west?

A. I have been out here three years and that is all to my knowledge.

Q. For three years?

A. Yes.

Q. Have you recently done considerable work on the right of way on the Kankakee Belt west?

A. Not half enough.

Q. Before— But have you done considerable work? Have you rebalasted, for example?

A. Normal maintenance, yes.

Q. Have you rebalasted the Kankakee Belt west?

A. Not entirely.

Q. From where to where have you rebalasted?

A. I think we are up as far as Dwight. I am not sure of that now.

Q. From Kankakee?

A. Yes. I am not sure that we are that far.

Q. I think you will find if you will check your railroad, sir, that you are.

A. If I had my track diagram with me, I could tell you right off.

Q. When is the last time that you looked over the Kan-
[fol. 210] kakee Belt west?

A. I was over that in—it has been this fall, I think it was, October, that I covered the entire west end. I have been to Kankakee some.

Q. You are not familiar with the fact you have rebal-
lasted beyond Dwight?

A. I have so many miles of track that keeping each one individually in mind, I can't, and I certainly wouldn't want to tell you an untruth.

Q. Mr. Reynolds, have you ever participated in a switch-
ing cost study of grain in the Chicago terminal?

A. No, I haven't.

Q. At Kankakee?

A. No, I haven't.

Q. Have you ever made a switching cost study or par-
ticipated in the making of a switching cost study?

A. No, I haven't.

Mr. Murphy: I object to going out to other territories.
He says he hasn't participated in any.

By Mr. Freeman:

Q. I am just trying to test the man's background with
some of the statements he had made here with respect to
the comparative costs, Chicago and Kankakee, and I would
like to know if the man knows the elements that go into
making a switching cost study to determine whether or not
he can make the kind of statements which support the kind
[fol. 211] of statements he has made on this record.

Mr. Murphy: Ask him the basis for his statements.

Mr. Hayes: I think the witness answered the question
that he never had participated in a cost study.

Mr. Freeman: That was my understanding.

The Witness: That is right.

By Mr. Freeman:

Q. Do you have a switch engine assigned at Streator?

A. No, we do not.

Q. Do you have a yard at Streator?

A. Yes.

Q. How many tracks?

A. Five.

Q. Do you call that a classification yard?

A. Yes, that is our yard.

Q. Now which one of these trains switches that yard?

A. The Streator Turn.

Q. The Streator Turn?

A. Yes, by special agreement.

Q. By special agreement with whom?

A. With the organizations that we do not have a switch engine on duty there and this man does the switching.

Q. Your employees, when you refer to an agreement?

A. Yes.

[fol. 212] Q. How long would a switch engine be engaged in a normal day of switching at Streator?

A. Handling all of the industries and the interchange, three to four hours.

Q. And this switching at Streator is on a five day or a seven day basis?

A. That is on, I believe 6 days.

Q. Six day basis?

A. I believe so.

Q. How many units, diesel units, does the Streator Turn train have?

A. Normally two. We do try to get three on there if the power is available.

Q. How many units does the Zearing Train have?

A. Two, and we try to get three or four depending on how the power is.

Q. Do you have two units on the Streator Turn because of the necessity for two units to switch at Streator?

A. No.

Q. Now going to your switching operation at Kankakee, how many yards do you have at Kankakee?

A. We have four yards.

Q. You have four yards?

A. Yes.

Q. Is one of them a classification yard?

[fol. 213] A. Two of them are classification yard. That is, under my supervision, I am speaking of.

Q. I fail to understand you. You mean there may be more yards in Kankakee which are not under your supervision?

A. Not of the New York Central.

Q. I am only referring to New York Central yards.

A. Yes.

Q. You have two classification yards?

A. Yes.

Q. Where are those classification yards?

A. The west yard which is off the Kankakee Belt west of Kankakee and the Court Street Yard which is the terminus of the southern district operation at Kankakee.

Q. What are your other two yards?

A. We have two industrial yards, one of which is called Fifth Avenue which is right at Fifth Avenue at Kankakee, which is east of the West Yard and west of the Illinois Central crossing, and East Yard, which is east of the Illinois Central crossing in that industrial area.

Q. Will you tell me about the handling that your train gets in Kankakee? Let's take the Streator Turn train first, it goes to the west classification yard?

A. The Streator Turn originates at the West Classification Yard.

[fol. 214] Q. I am coming in, if you will, and we are going to break up the train, we are coming back, we are coming east into Kankakee; and I would like for you, if you will, to tell me the steps in the first classification yard.

A. The cars arriving at West Yard are switched by one of the two yard engines which are on duty into the designated tracks for the classification of the cars in that train. Local industrial cars are put in on their designated tracks.

The cars that are moved east directly from Kankakee are put in on their designated tracks.

Q. Now we have the train broken up?

A. Yes, sir.

Q. Do you have a hump there or is that flat switching?

A. That is flat.

Q. Flat switching?

A. That is right.

Q. Let's suppose that we have a car in that train to go to General Foods. Will you tell me how that car is handled?

A. If it is a car of grain it has to go—

Q. A car of grain, let's say, for General Foods.

A. It has to go to the inspection track.

Q. Where is the inspection track? Is that in your west end classification yard?

[fol. 215] A. West yard, yes.

Once the grain has been inspected, it is put in the track for General Foods industrial cars, and it can either be handled from west yard directly to General Foods or they can go from west yard to Fifth Avenue Yard and then to General Foods.

Q. You have a transfer run, a regular transfer run from west yard to Fifth Avenue, for example?

A. Well, that is—all crews go on duty at Fifth Avenue and then they go out to west yard, and do their switching, and then come back to Fifth Avenue to go off duty. Therefore, the cars—it is not a regular transfer; it is the crews going on duty take cars out to west yard and going off duty take cars back to Fifth Avenue.

Q. And at Fifth Avenue what happens, is it put on a track?

A. On a track.

Q. Is this a car destined to General Foods?

A. Yes.

Q. It is put on a track with other cars which are destined to General Foods?

A. If we have cars at Fifth Avenue, yes.

Q. Then you will have an industrial switch from Fifth Avenue to General Foods?

A. Yes.

[fol. 216] Q. Now is that an explanation of the complete handling, everything that would happen to that car from the time it arrives at Kankakee until the time it goes to General Foods?

A. It arrives, of course, at east yard, the industrial yard, which we spoke of, and then is placed at General Foods. The same crew that takes it out there places it, however.

Q. Excuse me. It does not go to Fifth Avenue Yard; it goes to east yard from the classification track?

A. No, it goes from west yard to Fifth Avenue, and the crew going on duty that works General Foods, just rather than send him clear from Fifth Avenue out to West Yard

and then bring him back from there through Fifth Avenue Yard to go to east yard, since the crew is on duty at Fifth Avenue, he makes the pick-up, he picks his cars up there and goes on out to east yard and then spots the cars in General Foods which is right there at east yard.

Q. So that the car would go through three yards?

A. Because we desire it to. It is a more economical way to handle it.

Q. Yes, for whatever reason, it goes through three yards. I am just trying to find out how this car is handled.

A. It is the economy that dictates it. It is more economical that way.

[fol. 217] Q. Now can you tell us about a car which is going not to General Foods, a car of grain, but is going east out of Kankakee?

A. How far east?

Q. The car runs—well, let's say it is going to Indianapolis. I merely want to know about your yard handling, that is what I am addressing myself to, Mr. Reynolds, so that we understand each other.

Confirming the questions to that particular service at this point, will you describe the handling that the car gets which is destined to Indianapolis—the car gets in the Kankakee yard?

A. It is switched to its designated track, depending on where it is to be set out.

Q. This first is in the west yard?

A. West yard, yes. The car is switched into its designated track at Kankakee, the train is grouped according to the set-offs that the car is to make or the train is to make, and once that train is grouped, it is coupled, the air is then turned on, it is turned over to the car inspectors for their work, the road crew is ordered, and the inspectors OK the train, do whatever work they have to do on it, and then the road engine and caboose are put on the train and the train departs.

Q. Does the car at west yard or at any other place in [fol. 218] Kankakee get a grain inspection?

Mr. Bradford: You mean a car of grain going to Indianapolis?

The Witness: I couldn't say.

By Mr. Freeman:

Q. The car comes into the Kankakee Classification Yard?

A. Yes.

Q. And the trains east are made up at the west end classification yard?

A. Yes, sir.

Q. And leave from the west end classification yard?

A. Yes, sir.

Q. Did you actually tell us how many trains you had out of Kankakee east?

A. No, I didn't.

Q. Kankakee to Schneider, for example, is your point at which you have converging lines.

A. We have under normal operations a local operating between Kankakee and South Bend on alternate days, and then we have two trains that work from Kankakee to Elkhart, Indiana, and there may be more in that service depending on the volume of business.

Q. Am I to understand that the cars shown on Exhibit 24 are all cars which are OK cars?

A. Yes.

[fol. 219] Q. Are these all New York Central cars?

A. I could not guarantee that. I think I had better qualify it and say there are some foreign in there.

Certainly since the past three months, with business being down the way it is, I could guarantee that before, but I couldn't say for sure.

Q. Is this a period, because of business conditions being such as they were,—is this a period of car surplus?

A. Yes.

Q. Would you have expected this condition in the fall of 1956?

A. Well—

Q. At Kankakee?

Take a comparable period, 8-30-56 to 12-31-56, would you have had this kind of a surplus of grain cars at Kankakee?

A. I couldn't say. I am trying to recall that fall and that particular area.

Q. Instead of trying to pin-point this, let me make it broader, '55 or '54, in the history of the past three or four

years, would you expect this kind of a condition to prevail in the fall of the year?

A. I couldn't say. I don't recall the conditions down there.

Q. Is the New York Central an unusual railroad in that [fol. 220] it has a surplus of Class A box cars at harvest time?

A. I don't know.

Q. You do have a surplus of cars normally at harvest time on the New York Central?

A. No; no.

Q. So that you would not call this an unusual—I mean, you would not call this a usual condition?

A. We are talking about a specific area.

Q. We are talking about Kankakee.

A. And I can't recall it specifically.

Q. You show during that period 3608 cars and a need for only 258 cars. I call that a surplus.

A. Yes.

Q. You had no demands for these Class A box cars at other points on your system, so I assume you would call that a surplus, of course, would you not?

A. Yes.

Q. I am asking you if that is a usual condition on the New York Central?

A. On the New York Central, no.

Q. In the heart of the grain season?

A. No.

Q. That is all I was asking you.

A. I am sorry.

Q. Do you store box cars in bad order at Streator?
[fol. 221] A. Bad order? Not to my knowledge. Do you have a period you were thinking of? Maybe that would help me.

Q. Yes. I am asking you if that is a usual condition on the New—strike that.

Would you be surprised if on January 13th, which is the date that has been given me, there were 80 or 90 box cars on a track outside Streator?

A. No, they are there.

Q. Are those Class A box cars in good condition?

A. They are not class A. They are cars in storage.

Q. They are cars in storage?

A. That is right.

Q. Not Class A box cars?

A. Not to my knowledge, no.

Q. Would you be surprised to know that there were another 60 or 70 cars at Lehigh?

A. No. I have nine miles of empty equipment in storage on my division today.

Q. Were those Class A box cars in good condition?

A. At Lehigh?

Q. Yes.

A. I don't know.

Mr. Murphy: I am going to object to this. The exhibit shows grain cars, and now they are cross examining about other types of equipment, and I think we are getting far afield.

[fol. 222] I object to the question.

Mr. Freeman: We are talking about box cars and his box car situation, and I am going to ask him one more question.

Mr. Murphy: The exhibit shows grain cars.

Exam. Dahan: Let's see what the question is. You may ask him.

By Mr. Freeman:

Q. One more question along that line.

Do you use this as an area in which you store cars?

A. No, sir; ordinarily, no.

Q. Just in this particular time period we are talking about, you are storing the cars?

A. I have them tucked in every corner on my division that I can find.

Mr. Freeman: I wonder if I might have five minutes to talk with my colleague before I go into another subject?

Exam. Dahan: We will go right along with Mr. Chartrand.

Cross examination

By Mr. Chartrand:

Q. Mr. Reynolds, you gave quite a complete showing here with regard to the handling of empty cars furnished elevators in Chicago for loading.

To what extent do these elevators reload equipment they made empty?

A. I would say they would.

Q. To what extent?

[fol. 223] A. I would have no idea entirely.

Q. So we don't have any idea to what extent the handling that you show here has any application to what actually happened?

A. I am only superintendent for the New York Central in Chicago. What goes on on the other railroads I have no idea.

Q. On your railroad.

A. On my railroad they reload a hundred per cent.

Q. They reload empty cars?

They reload cars made empty one hundred per cent?

A. Unless there is penalty defects or the car is a bad one.

Q. Would that result in an appreciable amount or number of cars?

A. Yes.

Q. Then would you hazard a guess as to what extent the New York Central furnishes elevators on your railroad empty equipment from the hold tracks from this Englewood yard to some of the others?

A. I know at times the demand is beyond the capacity, which is 40 cars a day, and the demand is beyond that, sir.

Q. What is the overall, the average picture, though?

A. Well—

[fol. 224] Q. Not the extreme.

A. I would say—

Q. Could it be a relatively small per cent of the loadings?

A. I would not say, offhand.

Q. Do you have any idea, 50 per cent?

A. I would say 50 per cent of our cars are going for grain loading when the grain is loading, just speaking of that period.

Q. We are talking about 12 months out of the year.

A. To my limited knowledge, grain isn't loaded 12 months out of the year. It may be now in certain areas, but I still think 50 per cent of our Englewood wash goes for grain. Yes, sir, I will stand by that.

Q. Englewood wash?

A. Englewood Wash Track.

Q. What do you mean by that?

A. We take the cars in on the track, they are dry cleaned, then wet washed, they are upgraded and boards are put in in places where there are leaks.

Q. Do all of your cars after they are made empty by industries in Chicago end up on that wash track?

A. No, sir.

Q. So we got a small per cent of cars that ever hit the wash track?

A. Our capacity is 40 a day and we are washing 40 a day.
[fol. 225] Q. 40 a day?

A. Yes.

Q. For the amount of business you handle in Chicago, would that be a relatively small wash track?

A. No.

Q. You indicated in part of your testimony insofar as part of the terminal handling is concerned that there were several, more than one move made because it was more economical an operation. Is that true also at Chicago?

A. No.

Q. None of the multiple handlings at Chicago is done for an economical purpose by the New York Central?

A. I can't think of one. Operating requirements—if you would care to give me a specific case, maybe I might be missing something.

Q. I understood you to say in response to Mr. Freeman's question—

A. At Kankakee, yes.

Q. At Kankakee?

A. That is right.

Q. What is so different than handling cars in the terminal at Kankakee for the account of the railroad then as an economical handling?

A. The crews, by agreement, go on duty at Fifth Avenue, and Fifth Avenue is in the center between the west yard [fol. 226] and the east yard, and so, rather than have this crew going on duty at the center and go back to west yard and get cars and then go right by Fifth Avenue again to east yard, we have the cars brought from west yard to Fifth Avenue, and the crew going on duty there takes them from Fifth Avenue to east yard.

is just to save the double back run.

Q. You don't have any handling at Chicago?

A. That is comparable?

Q. Yes.

A. Well, if you can give me a specific case, I perhaps could tell you.

Q. Let me put it this way: Your wash track is in one location.

A. Yes.

Q. Let's say your inspection track is another location.

A. Now by inspection—

Q. Inspection of cars for safety appliances and so forth, or inspection of cars for cleanliness, they are at different locations?

A. Yes.

Q. Why don't you have them at the same location and inspect them and clean them right there?

A. We would have rubbish all over the yard.

Q. Well, it is an economical thing for you to clean them [fol. 227] in a separate place, isn't it?

A. It is an operating requirement.

Q. Operating requirement?

A. Yes.

Q. This handling that you described at Chicago on cars either being loaded or unloaded, that is not peculiar to the New York Central alone but the other railroads serving Chicago have similar problems?

A. I am not that well acquainted with their operations to judge.

Q. Well, you wouldn't say that it was peculiar to the New York Central alone then?

A. Truthfully I just don't know their operations. The reason I am saying that is I can think of some things they

can do that I can't that would make it much better for them.

Q. Then at a time in the past where the revenue received for hauling a car from Streator via Chicago to New York or Streator to Kankakee to New York, you say you made a great—

Mr. Murphy: Now—

By Mr. Chartrand:

Q. You say you had much less expense in connection with the Kankakee car.

Mr. Murphy: I object to the question. The witness hasn't testified in any regard with regard to revenue.

[fol. 228] By Mr. Chartrand:

Q. You claim that the expense for handling through Kankakee is less than through Chicago?

A. I said it was less expensive.

Q. Or more costly through Chicago than Kankakee, I believe that was the way you stated it?

A. I believe it was less expensive.

Q. Well, I refer particularly to the statement made at page 10 where you talk about—well, the question is: "With your knowledge of the New York Central operations at Chicago and on the Kankakee Belt, can you state whether the operation of originating corn at stations west of Kankakee for movement to Kankakee would be more or less expensive than the operation of originating corn at Chicago for movement to Kankakee?" And I believe you said that it was more expensive.

A. Where?

Q. "More costly operation."

Mr. Murphy: He said: "Therefore, the Kankakee Belt movement is less expensive."

By Mr. Chartrand:

Q. How much less expensive?

A. I have no way of knowing the exact figure or a figure. It is my knowledge as an operating man with the require-

ments of these interchange moves that leads me to that [fol. 229] conclusion.

Q. Well, you took a number of things into consideration in coming to the conclusion that it was less expensive?

A. Right.

Q. But you don't know how much less expensive?

A. No.

Q. You do not?

A. No.

Mr. Chartrand: Mr. Examiner, I would move that that portion of page 10 wherein he says that it is less expensive, but has no idea what it is, be stricken from the record.

Mr. Murphy: Your Honor, he has not placed a precise figure in the record.

Exam. Dahan: I will overrule the motion, so you don't have to make any speech.

By Mr. Chartrand:

Q. On outbound shipments from Chicago elevators, the handling that you have outlined here in your presentation, is that the same type of handling that would occur on ex-barge traffic?

Mr. Murphy: For clarification, do you mean ex-barge corn coming out of the Chicago elevator?

Mr. Chartrand: Yes.

The Witness: Yes.

By Mr. Chartrand:

Q. Does more than one crew participate in that turnaround from Kankakee to Streator, that 8 to 10 hour [fol. 230] time you referred to?

A. No, that is just one crew.

Q. You made reference to the handling both in and out of the Port of Chicago, Port Calumet, and the handling in connection with the Rock Island.

Has not the New York Central made application to the Commission to serve that Port direct?

A. Yes.

Q. Which would eliminate reference made herein insofar

as the handling at the Kensington Yard by the Rock Island Railroad?

A. Not at Kensington Yard.

Q. Well, did not the New York Central apply for direct entrance into the Port?

A. Yes.

Q. One more question, you refer on page 9 of your statement to shipments originating west of Kankakee going to Indianapolis?

A. Yes.

Q. And you indicate there that the cars are switched upon arrival at Kankakee to designated tracks. That is a classification of those west end cars?

A. Yes.

Q. They are classified and those for Schneider are set aside?

[fol. 231] A. Yes.

Q. After those cars arrive at Schneider, are they there classified?

A. Yes, on occasions. It would depend on the volume. There might be a Schneider car or a Sheff car that would remain there, and it might be mixed with other Schneider cars, yes. On other occasions they would have a solid group for Sheff.

Q. Well, of course we are not speaking of abnormal situations where you have got straight trainloads, but just the ordinary run of business would contemplate some ordinary classification at Schneider?

A. Right.

Q. Then I believe you did indicate that the cars are then picked up and they are placed with other cars to be set out at Sheff?

A. Yes.

Q. Are they there classified?

A. No; that is, all that goes to Sheff is cars for the east, cars east of Sheff on the southern district.

Q. East of Sheff?

A. Yes.

Q. You indicate they are then picked up by a southern district crew and there handled to Indianapolis?

A. Yes.

[fol. 232] Q. And upon arrival at Indianapolis they are classified?

A. Yes.

Q. And those that go to the inspection, grain inspection tracks, are set out and set on those tracks?

A. I am not acquainted with the Indianapolis operation, I am sorry, sir.

Q. You are not?

A. No.

Mr. Chartrand: That is all.

Mr. Freeman: I have just a couple more.

Exam. Dahan: All right. You may ask two questions.

Cross examination.

By Mr. Freeman:

Q. Mr. Reynolds, does the New York Central have the obligation for furnishing grain doors for the elevators along the Kankakee Belt?

A. Yes.

Q. How is that handled? How do you get the grain doors there?

A. We are presently using the paper doors. They are ordered by the agent and are delivered to the elevators. That is just a new operation. Prior to that we were using the wood doors.

Q. How recently was that change made?

A. It is the last couple months for the system, and I can't give you the exact date on the Kankakee Belt.

[fol. 233] Q. Who owns the grain doors that are piled up along these elevators on the New York Central?

A. The New York Central.

Q. Are you going to pick those up now that you have changed over?

A. No, they are to be used up until they are completed and then the paper will be used.

Q. But you have not yet shifted over?

A. The shift has been made, but all of the doors have not been used up yet.

Q. And you will bring those paper doors in a box car to an elevator and leave a supply there? Is that the way in which the paper doors are handled, or do you put a supply in each car?

A. I know we are not putting them in the car, but as to the actual physical distribution out there on the west end, I am not certain of it.

Q. How do you do it on the other parts of your system, then?

A. We are delivering them by truck. They are being ordered by the agents directly to be delivered to them.

Q. To the agent or to the elevator?

A. The agent is ordering them, and if there is an agency there, I believe they are being ordered directly to him.

Q. Does the agent give a supply of these doors for each car?

[fol. 234] A. Oh, no.

Q. One at a time or—

A. No, the supply is given to the elevator.

Q. Where will the elevators store the paper doors?

A. Well—

Q. Where will the loading points store the paper doors if there is no elevator there but you have a portable loading facility at that point?

A. If we have an agency there, it would be in the agency office. If we don't, I don't know, truthfully.

Q. You don't know how that matter will be handled when you have a portable loading facility along the road and there is no agency?

A. I don't, no.

Q. You have such situations along the Kankakee Belt, do you not?

A. Yes.

Q. Do you have anything to do with the leasing of land for the portable loading facilities?

A. I have to approve or disapprove of it, yes.

Q. Do you share responsibility to approve or disapprove?

A. With one of the people who does, yes.

Q. How many do you have now along the Belt?

A. I don't know.

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[fol. 235] Q. You don't know how many you have approved?

A. No, sir.

Q. Do you have some pending applications?

A. Not that I can recall.

Q. This is a short term or a long term lease?

A. I will tell you, I should qualify that in one way, that these applications come in, they go directly to our division engineer, and he handles them for processing. Once the processing is complete, they come to me for approval.

So to my knowledge, I don't know of any pending.

Q. Are these long term or short term leases?

A. All of ours are short term leases.

Q. They are short term leases?

A. Yes.

Q. 30 day cancellation?

A. Yes.

Q. You don't know how much you have approved or how many you have approved?

A. I don't.

Q. You would characterize it as several, though, rather than a few, wouldn't you?

A. We are speaking of between Kankakee and Morents, aren't we?

Q. Yes.

[fol. 236] A. Truthfully I don't remember of one now. Probably I shouldn't even say that but I don't recall one.

Q. You don't recall approving any?

Mr. Murphy: He said he didn't recall any, your Honor. I object to this. It is beyond the scope of the direct examination.

Exam. Dahan: Objection sustained. Do you have any further questions, Mr. Freeman?

Mr. Freeman: I have a couple.

By Mr. Freeman:

Q. You have a per diem cut off time at midnight to make your interchange, do you not?

A. Yes, right.

Q. Do you ever miss that?

A. Yes.

Q. Are you familiar with the New York Central's deliveries to Cargill which is served by the Northwestern? You did not mention that in your testimony as one of the elevators, but I take it you do have such a—

A. I have on my Exhibit 23, "Cargill Elevator, 122nd & Torrence Avenue, C. & N. W."

Q. That is the elevator to which I refer. Now in your testimony you did not refer to the nature of the movement to that facility.

Are you familiar with that operation?

A. To the extent that the empty cars are given to the [fol. 237] Indiana Harbor Belt Railroad at Gibson.

Q. And then what happens to it?

A. The Harbor delivers them for us.

Q. To the North Western?

A. Truthfully I couldn't even say that.

Q. How about cars delivered out of Englewood?

A. Those go to Indiana Harbor Belt's Elevator Yard.

Q. Do they go to South Chicago first?

A. No. These are cars going to the Indiana Harbor Belt Railroad. They would go to South Chicago if they were going to the Rock Island, but to go to the Indiana Harbor Belt they go to Indiana Harbor Belt's Elevator Yard and from there to the Michigan Avenue Yard where the interchange is made between the New York Central and the Indiana Harbor Belt, and then the Belt takes those cars to Gibson and switches them at Gibson.

Q. Are they taken from Gibson to Burnham?

A. I am not that well acquainted on that.

Q. You are just not intimately familiar with that?

A. Not with the Harbor operations, no, sir.

Mr. Freeman: That is all.

Redirect examination.

By Mr. Murphy:

Q. Can you tell us what yard trains from Chicago that have moved through Schneider to Kankakee would be placed in at Kankakee?

[fol. 238] A. West yard.

Q. West yard. Is that the same yard in which the cars moving from the west end go to when they reach Kankakee?

A. That is correct.

Q. Would the operation on cars from Chicago arriving at West Yard so far as classification is concerned be the same as the operation you described in response to Mr. Freeman's questions?

A. That is right.

Q. Now Mr. Legg asked you to describe how cars are handled from the time they come into the yard until the time the train moves out?

A. Yes.

Q. What operation were you describing there? Did you have any particular yard in mind at that time?

A. West Yard.

Q. Is that a normal rail operation that you described?

A. Yes.

Q. Do you know whether the elevators on the Kankakee Belt do their own cooping or do you have cooping crews that labor on it?

A. Will you repeat that?

Q. Who coopers the corn cars loaded on the Kankakee Belt, if you know?

A. At Kankakee by our forces.

[fol. 239] Q. At the stations west of Kankakee on the Kankakee Belt where corn is originated, who coopers the cars, if you know?

A. If there is any done, it would be the elevator operator.

Q. Who installs the grain doors?

A. The elevator operator.

Q. Do you have a division—do you have a situation there where empties at elevators in Chicago are marked for return to the owning railroad?

A. Oh, yes.

Q. Can such cars be loaded for an eastbound movement out of that elevator?

A. Yes.

Q. Can they be loaded for an eastbound out of that elevator or then must they be returned to the owning railroad?

A. Well, if they are marked "Return," they would have to be returned.

Mr. Murphy: That is all I have.

By Mr. Bradford:

Q. Mr. Reynolds, is the southern district of the New York Central—does it have a terminus at Kankakee?

A. Yes, they do.

Q. Do they operate through freight trains from Kankakee to Indianapolis?

[fol. 240] A. Yes, they do.

Q. On grain originating on the Kankakee west line for Indianapolis, do you deliver it to this southern district at Kankakee or do you take it to Schneider and then south?

A. I believe you are correct that grain for Indianapolis is taken directly over to the southern district yard at Kankakee.

Q. I understood you to say that it was taken to Schneider and then—

A. I did say that.

Q. I thought you were mistaken.

A. What you say is right. I am sorry about that.

Recross examination.

By Mr. Chartrand:

Q. Insofar as what you do relay to Danville and Paris, does that still stand?

A. Yes.

Mr. Chartrand: That is all.

Exam. Dahan: Witness excused.

(Witness excused.)

OFFERS IN EVIDENCE

Exam. Dahan: Any objections to the receipt in evidence of Exhibits 22 through 24?

With no objection, the exhibits will be received in evidence.

(Applicant's Exhibits 22 to 24, inclusive, Wit. Reynolds, received in evidence.)

[fol. 241] Exam. Dahan: We will recess for ten minutes.

(Brief recess.)

Mr. Murphy: I would like to recall Mr. Reynolds for one question on redirect.

Exam. Dahan: Very well.

THOMAS E. REYNOLDS having been previously duly sworn, was examined and testified further as follows:

Redirect examination.

By Mr. Murphy:

Q. Mr. Reynolds, you were asked on cross examination whether or not you ever missed getting foreign cars off your railroad by midnight. That is foreign cars that you give to the other railroads at the interchange points?

A. Yes.

Q. Can you give us an indication of how often that occurs?

A. We miss about 10 per cent of the time.

Q. Can you state for the record the principal reason why you miss that service?

A. Late connection on the train from Elkhart, and then on occasion there is a disruption of service.

Mr. Murphy: That is all I have.

Recross examination.

By Mr. Freeman:

Q. What determines the time that the train leaves Kankakee?

[fol. 242] A. We have connection cars coming from Elkhart, and those cars have to be assembled from that train

in the proper groups for setting out, and then it depends on the time that that one arrives when the other one can be called, rather than have those cars miss and lay over for 24 hours.

Q. Does the number of stops that you make between Kankakee and Streator on your Streator Turn make a difference in the elapsed time between Kankakee and Streator?

A. There is a difference, yes.

Q. Now—

A. It does not account for missing connection there.

Q. What would be the elapsed running time between Kankakee and Streator with no stops?

A. An hour and 15 or 20 minutes.

Q. An hour and 15 or 20 minutes?

A. Yes.

Q. And you leave on that run at what time? What time do you normally leave Kankakee?

A. 11:00 a.m.

Q. And you sometimes miss connections?

A. Because the train is late from the east.

Q. What is the latest that you leave?

A. And make the connection?

Q. Yes.

[fol. 243] A. 12:00 o'clock; we can still make our connection by leaving at noon.

Q. Make your connection at Streator?

A. Yes.

Exam. Dahan: What time are you trying to make?

The Witness: 1:15 p.m.

Exam. Dahan: What is the connection time?

The Witness: They are good enough to give us up until 2:00 o'clock.

By Mr. Freeman:

Q. If you have any stops between Kankakee and Streator, you can't make it if you leave at 12:00; can you?

A. That is correct.

Redirect examination.

By Mr. Murphy:

Q. Do you have interchanges to make between Kankakee and Streator on that train?

A. If there is some time to make them, yes.

Q. With other railroads?

A. With other railroads, yes.

Mr. Freeman: That is all.

Mr. Murphy: That is all.

Exam. Dahan: You are excused, Mr. Reynolds.

(Witness excused.)

Exam. Dahan: Call your next witness.

Mr. Leiper: I would like to call Mr. John E. Gibbons.

[fol. 244] JOHN E. GIBBONS was sworn and testified as follows: from the

Direct examination.

By Mr. Leiper:

Q. Please state your name.

A. John E. Gibbons.

Q. What is your occupation?

A. Grain dealer and elevator operator.

Q. State the name and location of your company.

A. The Frank Gibbons Grain Company. We have grain facilities at Sunbury, Illinois on the New York Central Railroad and at Nevada, Illinois on the Gulf, Mobile & Ohio Railroad.

Q. How long has your company been in operation?

A. For forty years.

Q. Describe the business your company conducts?

A. We store seed, seed corn and grain for both the Government and private and individuals, and, of course, we buy and sell grain.

Q. What is the bushel capacity of your elevator located on the New York Central?

A. 20,000.

Q. Will you describe one complete operation of your elevator?

A. We buy the corn from the farmer; the farmer shells it and hauls it to our elevator. We weigh, elevate and [fol. 245] grade the corn, and then load it into box cars and ship to the purchaser.

Q. During the period 1954 through 1956, how many carloads of free corn were shipped via the New York Central?

A. None.

Q. During this period did you cease the commercial elevation of corn?

A. Yes, we ceased it because the prices at the river elevators dictated the corn be trucked directly to the river.

Q. Did your company, during this period, purchase corn for elevation at the river?

A. Yes.

Q. Was that corn moved direct from the farm to the river by truck?

A. Yes.

Q. Who bears the expense of trucking the corn from the farm to either the country elevator or the river elevator?

A. The farmer in both cases.

Q. During the period January 1, 1957 to August 30, 1957, did your company load cars with free corn for shipment via the New York Central from your Sunbury elevator?

A. Yes. The 5½ cent proportional rate published by the New York Central enabled our company to compete with [fol. 246] the river elevators and handle the corn ourselves.

Q. What effect did the discontinuance of the 5½ cent rate on August 30, 1957 have upon your business?

A. We were forced to cease the loading of rail cars at Sunbury and to purchase corn only for elevation at the river.

Q. What is the extent of the area within which your company purchases corn?

A. Approximately five miles in each direction from our elevators.

Q. Did this area increase as a result of the publishing of the 5½ cent rate?

A. No.

Q. In your opinion did the fact that during 1937 your company was able to ship corn via the New York Central harm your competitors' business?

A. In my opinion it did not.

Q. In your opinion is the 5½ cent rate necessary to enable your company to ship corn via the New York Central?

A. Yes.

Q. Is the farmer benefited by the 5½ cent rate?

A. Yes. When the 5½ cent rate is effective, the price offered to the farmer for his corn is derived from competitive bids and he receives a better price for his corn.

[fol. 247] Q. Would the cancellation of the 5½ cent rate have any effect upon your investment in your Sunbury elevator?

A. Yes, it would have a harmful effect.

When we purchased the elevator at Sunbury, we installed a new scale, a new conveying auger, and a new belt for cups and made many other costly improvements.

We made these improvements in reliance upon the continuance of the 5½ cent rate. Cancellation of the rate will make it difficult, if not impossible, to realize any benefit from our expenditures.

Mr. Leiper: That is all we have on direct. The witness is available for cross examination.

Cross examination.

By Mr. Hayes:

Q. What do you mean by "free corn"?

A. Free corn is what we refer to as corn that is not sealed with the government program. It is available for the open market.

Q. The rate factors that you have been discussing, would they have any effect on the way the unfree corn moves, what transportation it takes?

A. The unfree—in other words, the stored corn for the government?

Q. Yes.

A. No, not to my knowledge.

[fol. 248] Q. Do you know where this corn goes when it goes to the river from around Sunbury?

A. Well, we have definite commitments and contracts with the river elevators, the different river elevators; when it leaves the farm we know exactly to which river elevator that is going.

Q. With what river elevators did you have such contracts?

A. We have had contact with Continental at Seneca and Morris; the Blidden Company at Seneca, Cargill in Morris; Norris Grain Company in Morris, Illinois; Illinois Grain Terminals in Morris.

Q. Under those contracts, was corn handled through your elevator that moved to those river elevators that you have named?

A. No, the corn that went to the river elevators went from the farm directly to the elevators on the river.

Q. But you acted as a purchaser of that corn and then that corn that your elevator purchased went to the river elevator, is that right?

A. That is correct.

Q. In other words, you did business in that grain of the kind that you described?

A. Yes.

Q. How long did you do that kind of business?

A. Well, I myself have been—

[fol. 249] Q. That is what I mean, you personally.

A. Yes. From a period of 1946 until January of 1957.

Q. Are you still doing business that way?

A. Not on corn shipments.

Q. Is there any elevator with which you are in competition at Sunbury that is located on the rails?

A. I think possibly it may be safe to say that any grain elevator that is in the proximity of my territory is possibly a competitor. There are elevators up and down the New York Central from me in both directions.

Q. There is no other grain elevator than yours which is located at Sunbury?

A. No. If I misunderstood you, I am sorry.

No, I am the only one at Sunbury.

Q: You mean there is no other elevator at Sunbury than your own?

A. That is right.

Mr. Leiper: That is what he means, Mr. Hayes.

Mr. Murphy: The answer is no? Has he said so? I wanted to get his meaning.

By Mr. Hayes:

Q. And you refer to other elevators that would be competitors of yours that are located up and down the New York Central as on the rails, if I understood you correctly, did I not?

A. Yes, that is correct.

[fol. 250] Q. That is on the New York Central Railroad?

A. Yes.

Q. Those were the competitors you were speaking of in your direct testimony when you said it had not hurt their business as a result of this rate?

A. No, I had reference to any competitor of mine in that respect.

Q. Well—

A. I mean, in other words, if I could alter that, my competitors aren't all on the New York Central.

Q. Where are these other competitors than those that are located on the New York Central?

A. Well, other competition is anywhere close to our facility, Blackstone, Odell.

Q. How far is that.

A. I would say that is approximately 8 miles.

Q. May I interrupt you?

A. Certainly.

Q. Does that elevator at Blackstone, does it or doesn't its management make any arrangements for the shipment of grain via the New York Central on this 5½ cent rate?

A. I couldn't say whether they have or not. I list them as a competitor in trying to answer your question. They are really quite a ways from it.

Q. It really wouldn't be your competition?

[fol. 251] A. No.

Q. Actually your only real competition is the elevators up and down the line of the New York Central, that would be true, would it not?

A. I would say so in corn.

Q. Now you referred to elevators on the river owned by Glidden, Cargill, Norris, Illinois Grain and one other one.

A. Continental.

Q. Continental. If I recall correctly, you said that you had handled grain for shipment to those elevators, referring to your elevator now?

A. Yes.

Q. Was that a profitable business for you?

A. Yes, it was profitable.

Q. These river elevators, are they, the five you mentioned, owned by different companies?

A. To my knowledge they are, sir.

Q. Are they all trying to accumulate grain?

A. You mean are they in search of business, is that it?

Q. That is the idea.

A. Yes.

Mr. Leiper: Mr. Examiner, I must object to that question. It involves a knowledge that this witness does not have.

[fol. 252] Mr. Hayes: This witness has done business with them.

Exam. Dahan: If he doesn't have the knowledge, he can just say he doesn't.

Mr. Leiper: If you don't know, just say "I don't know."

By Mr. Hayes:

Q. Well, Mr. Witness, do you know? If you do know, please tell me.

You know, as a matter of fact, that those river elevators are in competition with each other for the accumulation of grain through your contact with them, do you not?

A. Well, I have absolutely no way of knowing what they have in mind at that.

Mr. Hayes: I have no further questions.

Cross examination.

By Mr. Legg:

Q. Mr. Gibbons, what is the greatest distance from your elevator from which you have received any corn since the 5½ cent rate went into effect?

A. I think to answer that I would have to cite an example that is terrifically out of the ordinary. I would say that approximately it is 9 miles or 9½, but the reason that grain came that far to our elevator was that the contractor who installed our new scale owned this ground out there, and in appreciation for our having him put in the scale, he sold me the grain.

Q. What is the next farthest distance, then?

A. I would say five to six miles.

[fol. 253] Q. Do you know that certainly or is that a guess?

A. No, that is no guess.

Q. Who operates the elevator at Blackstone?

A. It is a farmer owned elevator.

Q. Is it located on another railroad than the New York Central?

A. Yes.

Q. What railroad?

A. The G. M. & O., a branch of the G. M. & O.

Q. Are there any other elevators out there not on the New York Central and not including the one at Blackstone within a distance of 10 or 12 miles of your elevator?

A. Would you state that again?

Mr. Legg: Read it.

(Question read.)

The Witness: Yes, there is one at Odell; there is one at Kinsman; there is one at Dwight.

By Mr. Legg:

Q. Dwight is on the New York Central. You mean there is an elevator at Dwight which is not on the New York Central?

A. Yes.

Q. Who operates that elevator?

A. Scott is the man's name.

Q. Would you expect in the normal course of business that any elevator in the country area such as yours would [fol. 254] draw grain from a radius of about five miles around, five or six miles around the elevator?

A. Well, not necessarily in a circle. I think it probably depends upon perhaps the individual and the proximity that he is to an area. I mean, in other words, if I could clarify my statement, if you have two elevators here, what you wonder, if there is one here and there is one here, and they are 10 miles apart, would they both just exactly do five miles of business, or five or six miles of business—

Q. Five or six miles of business as you say you do.

A. Well, I think there would be some interlap in there one way or the other, but I think that probably their radius would be right close to that.

Q. If they were closer together than 10 miles, there would be more overlap than in the radius of their operations?

A. Yes.

Q. How far is it? How far is your elevator at Sunbury from Morris and from Seneca?

A. From Seneca it is about 24 miles; from Morris I would say it is about 24 or 25 miles.

Q. When did you enter into the commercial elevation of corn again after the 5½ cent rate went into effect?

A. You mean the first time that it went into effect?

Q. Yes, sir.

[fol. 255] A. Well, that would be January 1957.

Q. You started commercial elevation, then, in January?

A. Yes.

Q. When did you become the owner of the Sunbury elevator?

A. In January 1957.

Q. When you began commercial elevation again, did you do that on a bid from some buyer for the corn?

A. Well—

Q. Who would then require it to be transported along the New York Central track?

A. You mean in January?

Q. Yes.

A. When we started to ship corn on the rail?

Q. That is right.

A. You wish to know if we had a firm bid from somebody, some buyer on the rail?

Q. That is right, before you began elevation.

A. Yes, we did.

Q. What knowledge do you have of the business done by the river elevators at Blackstone and Odell and at Scott Grain at Dwight?

A. I have no knowledge of their business capacity.

Q. Nor of the business which they have done in the past?

A. No.

Q. Nor of the business which they are now doing?

[fol. 256] A. No.

Mr. Legg: I have no further questions.

Cross examination.

By Mr. Freeman:

Q. Where is Nevada in relation to your Sunbury elevator?

A. The branch of the G. M. & O. is a mile south of the New York Central. Sunbury is located four miles west of Dwight; Nevada is located five miles west of Dwight on the G. M. & O.

Q. Is your Nevada elevator in operation now?

A. Oh, yes.

Q. So that does it transfer grain from that elevator to your Sunbury elevator?

A. No. There really isn't that need. They are too close together for that. If we purchase corn it is hauled directly to the Sunbury elevator.

Q. Now you are shipping from Nevada to Chicago on the G. M. & O.?

A. No. We at present aren't handling any corn through our Nevada facility.

Q. It is not in commercial operation?

A. Yes, it is in commercial operation. There is also other things: there is also oats and beans.

Q. But no corn?

A. No corn, that is correct.

[fol. 257] Q. Did you ever move corn out of there?

A. Yes, we have.

Q. You have moved corn out of Nevada. When was the last time you moved corn commercially out of your elevator at Nevada?

A. Free corn?

Q. Yes.

A. I can't recall.

Q. But you have moved free corn from your Nevada elevator?

A. Yes. I say—I will say maybe back around 1946.

Q. And that was corn that moved to Chicago?

A. No, that corn, if I recall correctly, went to Kellogg's at Battle Creek.

Q. You are just talking about sporadic movement now or a substantial movement?

A. Right, that is correct, a rather out of the way proposition that we would ship corn via the rail, but it happens at that time.

Q. So that it is fair to say you have just had no substantial commercial operation with your Nevada elevator of corn?

A. As far as corn coming in to the elevator and going out on the rail, no we haven't had any.

Q. Now at your Sunbury elevator you buy exclusively from the farmer, or do you buy from other elevators?

[fol. 258] A. We buy exclusively from the farmer.

Q. You mentioned that the sales to the river were profitable. Were your sales and your operations on the New York Central more, less or the same so far as profitable operations are concerned?

A. I will say that there is—I will say they are at least as good; I think they are better.

Q. Are you taking into account the fact that as you have explained in your testimony, that you are elevating the corn, putting it into your elevator, whereas I understand from your testimony that you did not do that when you shipped to the river?

A. That is correct.

Q. What is correct?

A. The fact that I have taken that into consideration.

Q. This is because of the difference in spread between what you can pay the farmer and what you can sell the corn for in Kankakee or elsewhere?

A. Yes.

Q. And that determines the profitability of your operations?

A. Yes.

Q. Measured against the cost to you, whatever that may be.

A. Yes.

[fol. 259] Q. Does your elevator own or operate any trucks?

A. No.

Q. Where is the nearest temporary portable loading facility to your elevator of which you are aware on the New York Central?

A. I believe the closest one is at Reddick.

Q. At Reddick?

A. I believe so.

Q. Who operates that?

Mr. Leiper: If you know.

The Witness: I don't know who it is.

By Mr. Freeman:

Q. How far are you from Dwight?

A. Five miles at Sunbury; six at Nevada.

Q. There is a portable loading facility so far as you are aware at Dwight; is there?

A. There is; there has been.

Q. At Dwight?

A. Yes.

Q. Is there also an elevator on the New York Central at Dwight?

A. Yes.

Q. Are the portable loading facility and the elevator operated by the same people, owned by the same people?

A. No.

Q. When you sell grain to the river, or when you did sell [fol. 260] grain to the river, did you know what the ultimate destination of that grain was?

A. No.

Q. I would like to address a few questions concerned with service to your elevator.

How often are cars set out at your elevator?

A. They are set out whenever I order them. I order them before they are set out.

Q. You order them from the freight agent who is located where?

A. Dwight.

Q. Normally do you order one or two cars?

Mr. Leiper: I object. **Mr. Examiner,** I must object to this as going beyond the scope of the direct examination. I believe counsel is on a fishing expedition. If he wants to establish anything, he should do it by his own witness. He is going beyond the scope of the direct examination, **Mr. Examiner.**

Exam. Dahan: What are you proposing to develop, **Mr. Freeman?**

Mr. Freeman: It seems to me that in the light of the evidence we have had so far from the New York Central witnesses themselves with respect to the service characteristics, that the question of the cost of the service is looming rather large in this proceeding:

[fol. 261] As opposing counsel well knows, these are not the kind of facts that we can develop. These are facts either within the knowledge of the New York Central or of the elevators located along the New York Central, and I think it would be very helpful to the record to have in the record facts as to the kind of service that we are talking about here.

My questions are addressed to that matter.

Mr. Murphy: Your Honor, we are anxious to make a complete record, but when the cross examiner exceeds the scope of the direct examination, he should make this witness his own witness, if he wants to go beyond it.

Exam. Dahan: If the New York Central wants to be deficient in any part of the record, it is up to them. In other words, it is their burden of proof and if you don't think they are putting in a complete record and haven't sustained the burden of proof, that is another thing.

I think you ought to confine your cross examination to the direct evidence.

[fol. 262] Mr. Leiper: That has nothing to do with operations, Mr. Examiner.

Mr. Erickson, I am sure you are well aware of that.

Mr. Freeman: I have asked the question, the obje

has been made, and I understand it has been sustained. I will not pursue that matter further.

No further questions.

Mr. Chartrand: Mr. Examiner, I would like to ask a couple of questions and then defer to Mr. Erickson to pick up with this witness.

Exam. Dahan: Very well.

Cross examination:

By Mr. Chartrand:

Q. You indicate that prior to the establishment of this 5 1/2 cent rate you operated an elevator at Nevada?

A. Yes.

Q. Where did your corn move from the Nevada elevator?

A. Well, it didn't. It moved from a farm to the river.

Q. To the river?

A. Yes.

Q. A great majority of the business?

A. All of it.

Q. All of it. Now upon the establishment of this 51½ cent rate, you acquired the elevator at Sunbury, or shortly after, January of '37?

[fol. 263] Mr. Leiper: I object to the question in the form in which it is worded. I think that perhaps you had better reword it.

Mr. Chartrand: I will restate it.

By Mr. Chartrand:

Q. I understand you acquired the elevator at Sunbury in January of 1957?

A. Yes.

Q. You still did business at Nevada?

A. Yes.

Q. But not corn business?

A. No.

Q. The corn business that you did do, where did it move to?

A. The corn business that we did after the first of January was shipped to the New York Central.

Q. Any to the river?

A. No.

Q. Then we have a situation, if I understand you correctly, where prior to the establishment of the 5 1/2 cent rate, everything went to the river?

A. Correct.

Q. Then after the establishment of the 5 1/2 cent rate, everything went to the New York Central?

A. Yes.

Mr. Leiper: Would you specify—

[fol. 264] Mr. Legg: Would you specify, Mr. Chartrand, whether you are referring to corn?

Mr. Chartrand: Corn business, yes.

The Witness: Corn, yes.

By Mr. Chartrand:

Q. Now you indicated a little something about oat and bean business, sir, that you have at the two elevators there at Nevada and Sanbury.

Do you prefer one elevator over another insofar as oat business is concerned?

Mr. Leiper: Mr. Examiner, I don't believe this witness—we are not here concerned actually with the business other than corn.

Exam. Dahan: Objection overruled.

Mr. Leiper: I think it should be restricted to corn.

Mr. Chartrand: He indicated—

Exam. Dahan: I overruled the objection. He may answer.

(Question read.)

The Witness: The only grain that we handle at the elevator on the New York Central is corn. The oat and bean

business is done or has been done strictly through our Nevada facility.

By Mr. Chartrand:

Q. If you wanted to load beans on the New York Central, that would be in about an equal position with your Nevada elevator insofar as transportation is concerned?

[fol. 265] A. Yes.

Q. Insofar as beans are concerned, you have no preference insofar as a price standpoint is concerned whether you handle it at your Nevada elevator or your Sunbury elevator?

The price is the same at both country elevators?

A. Yes. There is a matter of the physical aspect of the two elevators.

Q. Yes, surely, I mean if you were—

A. I mean if I were to truck beans out of Nevada, it is much easier for me than to truck them out of Sunbury with the present facilities, I don't believe that I would do it.

Q. Is the country track price the same on oats at both elevators?

A. Yes, applying as

Q. I believe you indicated that there is some direct relationship between the price at a country elevator like Nevada or Sunbury, the relationship between that and the rail rate.

Mr. Leiper: Wait a minute. Would you mind repeating that question?

Mr. Chartrand: I refer specifically to his statement at the bottom of page 2 where when the 51½ cent rate is effective, the price offered for his corn is derived from [fol. 266] competitive bids and he received a better price for his corn.

By Mr. Chartrand:

Q. You mean a better price than prior to the establishment of the 51½ cent rate?

A. No. I mean he receives a better price now that the rate is in. I mean daily.

Q. If we raise that to 15 cents tomorrow, it would affect the price, wouldn't it?

A. Oh, certainly.

Q. And it did affect the price when it went in initially, didn't it?

A. Yes.

Mr. Chartrand: That is all. Thank you.

Cross examination.

By Mr. Erickson:

Q. Mr. Gibbons, there are just a few additional questions.

In these 40 years that you have been operating an elevator, if I understood your answers correctly, all but the period from January 1957 forward was confined to Nevada, Illinois, is that correct?

A. That is correct.

Q. You state, as I understand it, that you did at that time deal in all of the grains such as beans, corn, and so forth, at the Nevada facility?

Your statement appears "We store seed, seed corn, grain, [fol. 267] and so forth," on page 1?

A. Yes.

Q. You did that prior to January 1957, too, did you not?

A. Yes.

Q. Now that is storing; there is no corn movement through there?

On the answer you just gave, there is no corn movement prior to January 1957 through or from your Nevada elevator in any of the prior years back to 1946 to the River, is that correct?

Didn't you do corn business before January 1957?

A. Yes.

Q. Other than direct farm to river hauling?

A. No.

Q. All of it was direct farm to river hauling, is that correct?

A. That is correct.

Q. None of it in your house.

I believe you stated the distance of 24 to 25 miles to the river was the figure. What is the trucking cost to the river?

Mr. Leiper: Mr. Examiner, we have not gone into trucking costs on direct and I don't believe it is proper cross examination.

Exam. Dahan: If he knows, he may answer.
[fol. 268] Objection overruled.

By Mr. Erickson:

Q. You have testified that you do not use your own trucks to transport to the River. Do you transport by a contract motor carrier?

A. Yes.

Q. What is the charge of the transport motor carrier in transporting corn from first Nevada to the River?

A. Well, from Nevada or the approximate area around there, the cost is 4 cents a bushel.

Q. 4 cents a bushel, and what would be the story with respect to Sunbury to the River?

A. It would be the same.

Q. Are the distances from the two points, as you have indicated been about a mile apart, about the same to the River?

A. Yes.

Q. 24 to 25 miles?

A. Yes.

Q. Now do you know or do you have knowledge as to whether or not these contract motor carriers that you employ have their tariffs on file with the Illinois Commerce Commission?

A. Yes, they do.

Q. So that the charge is a charge that is published and on file with the governmental body?

[fol. 269] A. Yes.

Q. Is it within your knowledge that the reason for that is that they are subject to regulation on Illinois traffic whereas they would be exempt carriers on interstate traffic?

Mr. Leiper: I believe that calls for a conclusion of law on the part of the witness. I don't believe he is qualified

William C. Street Station, New York Central Railroad, et al.

712 Board of Trade, Indianapolis, or Indianapolis Board of Trade.

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for that, Mr. Examiner, and I therefore object to the question.

Mr. Erickson: He has attested to the fact they are on file, and I will withdraw the balance of the questioning on that score.

By Mr. Erickson:

Q. Now is it within your knowledge that grain is sometimes handled since this 5½ cent rate came in through a New York Central elevator for the account of an elevator not located on the New York Central?

Mr. Leiper: Read that question.

(Question read.)

Mr. Leiper: Are you speaking of someone's business other than this witness' business?

Mr. Erickson: That is correct. I will be more specific, sir.

Exam. Dahan: I think the question is clear; the witness may answer.

The Witness: I don't handle any. I don't know of any [fol. 270] others that handle any.

By Mr. Erickson:

Q. Your answer is, then, that you do not handle for any other party and you do not know of others.

You attested to the fact that before entering upon the purchase of the New York Central facility in January of 1957, you did have a profitable business in dealing directly with the River, but I don't find that you have set forth for the record how that is done.

I would like to interrogate just a moment on that point, sir.

When a shipment is made from a farm to a River elevator, is it done for your account at the River elevator?

A. Yes.

Q. Is the settlement made by the river elevator with the farmer?

A. No.

Q. Or with you?

There are other appearances on behalf of the
William C. Leiper, 1225 La
for Chicago, Illinois, appearing on behalf
of the defendant.
Daniel J. Swaney, 1225 La

A. With myself.

Q. Is that based on the river elevator's bid at the river elevator location?

A. Yes.

Q. Do you in turn make settlement with the farmer for the amount paid at the river less the amount of the trucking cost to the river less your commission or handling as you may describe it?

[fol. 271] A. No.

Q. And remit to the farmer a net amount?

A. No, I can't say that that is all correct, because we don't take the trucking out unless the farmer wishes us to. He pays the trucking, but sometimes they will pay it themselves and other times they will ask us to take it out for the trucker.

Q. Would this be a correct question, then, that you make settlement for the price of the grain to the farmer less your handling cost, and including the trucking cost, if he has requested you to handle it in that manner?

A. Yes.

Q. If he has not made that specific request, the only difference in the procedure would be in the assessment of the trucking costs which would be paid direct to the trucker from the farmer, is that correct?

A. Yes.

Q. I believe some other party had made inquiry of you concerning the loading by a mechanical loading device at Dwight. How many elevators are there at Dwight, do you know?

A. Yes, I know. How many actual elevators or how many actual companies?

Q. Companies handling grain through a facility located on the railroad, either G.M. & O. or New York Central.

[fol. 272] A. There are two grain companies in Dwight.

Q. There are two grain companies, and one of those companies is located on the New York Central, is it not?

A. Yes.

Q. Are you leaving the presumption from the statement that there was mechanical loading, that the other elevator at Dwight, Illinois was loading through a mechanical loading device?

A. No, I made no presumption.

Q. Then it is some third party other than this other elevator that may have done that, is that correct?

A. That is correct.

Q. And you have knowledge of that?

A. Yes.

Mr. Erickson: That is all.

Exam. Dahan: Any redirect?

Mr. Leiper: Yes.

Redirect examination.

By Mr. Leiper:

Q. Mr. Gibbons, in buying corn for sale at the river, did you buy any south of the New York Central?

A. Did I buy grain south?

Q. Buy grain south of the New York Central?

A. Yes.

Q. In the movement of that corn that was purchased [fol. 273] south of the New York Central, what railroads were crossed in trucking that to the River?

Are you familiar enough with that area to tell us that?

A. Yes. We crossed the G.M.&O. and the New York Central to get to the River, and then I believe there is another one over at Ransom. I can't tell you which line that is.

Q. Let me make the record clear by this question on the matter of the corn which moved direct to the River: Was there any elevation on the part of your company of the corn which was trucked directly to the River?

A. No.

Mr. Leiper: That is all.

Exam. Dahan: Witness excused.

(Witness excused.)

Exam. Dahan: We will go to lunch now and come back at 1:30.

(Whereupon, at 12:30 o'clock p.m., a recess was taken until 1:30 o'clock p.m. of the same day.)

[fol. 274]

AFTERNOON SESSION

Exam. Dahan: Come to order please. Is the applicant ready to proceed?

Mr. Leiper: Yes.

Exam. Dahan: Call your next witness.

Mr. Leiper: I will call Mr. Edward Cahill.

EDWARD CAHILL WAS SWORN and testified as follows:

Direct examination.

By Mr. Leiper:

Q. Please state your name.

A. Edward Cahill.

Q. What is your occupation?

A. Grain Buyer.

Q. Will you state the name and the location of your company?

A. Cahill Grain Company, Budd, Illinois.

Q. How long has your company been in operation?

A. Eighteen years.

Q. Describe your company and the business it conducts.

A. We are buyers of country run grain. We have grain elevator and flat storage capacity of 300,000 bushels. Our elevator is located on the New York Central Railroad.

Q. Since your company is located on the New York Central, has it been your practice in the past to ship most of your corn via that railroad?

[fol. 275] A. No. While it would seem logical that we would ship our corn via the New York Central, the fact of the matter is that until December of 1956, we were unable, because of the high rail freight rate, to do so. During the entire period 1954 through 1956, we shipped only 20 cars of free corn. There were many months during which we made no rail shipments of corn at all. We could afford to ship by rail only when the river elevators were not making us a bid. The rail bids were so low that they afforded no competition whatsoever to the river bed.

Q. During the period 1954 through 1956, how did you ship the corn which you purchased?

A. Most of it was trucked direct from the farm to the river elevator. For instance, in 1956—75% of the corn we purchased moved in that manner.

Q. Did your company make regular and substantial shipments of free corn via the New York Central during the period January 1, 1957 through August 28, 1957?

A. Yes.

Q. Will you explain why your company was able to make these shipments?

A. Yes. The New York Central published a rate on corn of 5½ cents. We then received more reasonable rail bids which we were able to accept. With this rate available, we were able to compete with the river elevators and elevate [fol. 276] and ship the corn ourselves.

Q. Does your company compete with elevator companies aside from the river elevators?

A. We compete, to a certain extent, with the elevators at Blackstone and Ransom, Illinois.

Q. Have you an opinion as to whether your increased rail business in 1957 harmed the business of these elevators?

A. In my opinion, it did not. For the most part we purchased our corn from the same producers within the same area as we did in previous years.

Q. Who bears the expense of trucking the corn from the farm to your elevator and from the farm to the river elevator?

A. The producer in both instances.

Q. From farms in your area, is the trucking expense to the river elevator greater than to your elevator?

A. Yes, because the distance is much greater.

Q. Does the farmer receive any benefit from the rail bids based on the 5½ cent rate?

A. Yes. For the first time in many years, the bidding for corn became competitive because of the 5½ cent rate. As there are now two or more buyers bidding for the same corn, the price offered to the farmer will reflect the better bid.

Q. In your opinion, is the 5½ cent rate necessary to enable your company to ship corn via the New York Central?

A. Yes.

Mr. Leiper: The witness is available for cross examination.

Cross examination.

By Mr. Hayes:

Q. When the corn from the area in which you buy goes to the river to what elevator does it go.

A. It all depends, sir, where the producer would like to have it go. Continental Grain and Glidden Elevator are the closest two.

Q. And what is the distance from your elevator?

A. Approximately 15 miles.

Q. To each of them.

A. Yes sir.

Q. Did your company purchase that corn from the farmer.

A. Yes sir.

Q. Referring to the 75% of corn that your company handled prior to December 15, 1956 which you say went direct from the farm to the river elevator—

A. Yes sir.

Q. Did the farmer from whom you purchased it nevertheless indicate what elevator it was to go to.

A. In some instances, yes.

Q. Was that a profitable business for you.

A. Yes sir.

[fol. 278] Q. With respect to that corn that was so handled by your company prior to December 15, 1956 and the same percentage of your business that since then been elevated by your company and moved by New York Central, which was the more profitable to your company, the way you were handling it before December 15, 1956 or the way you are handling it now.

A. Oh, approximately the same.

Q. Well, if one is better, which is it.

A. I wouldn't say any one was better.

Q. As to the 75% of corn that you elevated, I beg your pardon, as to the 25% of corn that you elevated prior to December 15, 1956 when this 5½ cent rate went in, how did that move:

A. We'd take that into the elevator, sir, to sell out as feed and so on.

Q. Locally.

A. Yes sir.

Q. Did you hear the last witness testify.

A. Yes sir.

Q. You mean the same thing by free corn as he did.

A. Yes sir.

Q. What means of conveyance was used for the corn that went to the river prior to the time when this 5½ cent rate went in and corn did move.

[fol. 279] A. I didn't get the question.

Q. There was some corn moving to the river before they put in this 5½ cent rate from the area from which you buy.

A. Yes sir.

Q. And after that rate went in, then you didn't move any more corn to the river.

A. Oh, yes, we have moved some where maybe the trucking rate would be the same or it may be a little more to get it to our elevator than it would to the river or something like that.

Q. Would you read me that answer.

Mr. Leiper: Read the question too.

(Record read.)

By Mr. Hayes:

Q. What is the truck rate from your elevator to the river elevator of Continental Grain Company.

A. Three cents.

Q. A pound.

A. A bushel.

Q. And is it the same from your elevator to the Glidden Company's elevator.

A. Yes sir.

Q. Do you use farmers' trucks or hired truckers.

A. Hired truckers.

Q. Contract carriers or common carriers.

[fol. 280] A. Common carriers with local permits.

Q. Well, common carriers with local permits, you mean their rates aren't filed with the Illinois Commerce Commission.

A. They are filed with them, yes sir.

Q. How far away from you is the elevator at Blackstone.

A. About $4\frac{1}{2}$ miles I would guess.

Mr. Hayes: If Your Honor please, I object to counsel for the New York Central coaching the witness.

Mr. Leiper: Mr. Hayes, I merely showed him Exhibit No. 1.

Mr. Hayes: That should not be done while the witness is answering a question and I object to it.

Mr. Leiper: I apologize, Mr. Hayes.

Mr. Hayes: I don't want your apologies, I just don't want you to do it any more.

By Mr. Hayes:

Q. Would you answer please.

A. $4\frac{1}{2}$ miles.

Q. Is that located on any line of railroad.

A. It is on the G. M. & O.

Q. Do you know whether the elevator at Blackstone has purchased any corn for movement to Chicago since this $5\frac{1}{2}$ cent rate went in.

A. No sir, I would have no way of telling.

Q. But you have.

[fol. 281] A. We have bought corn, yes, not to Chicago I wouldn't say, sir, but to Kankakee and some places like that. I don't think we have shipped any to the best of my knowledge, we haven't shipped any to Chicago.

Q. And where is this elevator at Ransom, how far is that from your elevator.

A. Oh, about 5 miles.

Q. Is that on a railroad.

A. Santa Fe.

Q. Do you know whether that elevator at Ransom has done any corn business since this $5\frac{1}{2}$ cent rate went in.

A. I couldn't say, sir.

Q. Well, do you know whether the elevators at Blackstone and Ransom did business in corn of any kind before the $5\frac{1}{2}$ cent rate went in.

A. I couldn't say, sir. I presume they did.

Q. You presume they did.

A. Did and do now, but I wouldn't have no way of telling.

Q. Then you really don't know what their corn business was before this 5½ cent rate, or what it has been since then.

A. No sir.

Q. You have no basis for an opinion on that.

A. No sir.

Q. Are the river elevators of the Continental Grain Co. [fol. 282] and the Glidden Co. in competition with each other for the accumulation of grain.

A. Yes sir.

Mr. Hayes: I think that's all.

By Mr. Legg:

Q. Are you an employee of the Cahill Grain Company.

A. Yes sir.

Q. How long have you been employed by the company.

A. Since 1946.

Q. You say that you are now purchasing from the same producers in the same area you previously did.

A. Yes sir.

Q. Did you formerly compete for those same producers with the Blackstone or Ransom elevators? Did you compete for business from those producers.

A. Yes sir.

Q. And sometimes the producers would sell to you and sometimes to the other elevators.

A. That's right.

Q. And that period formerly is before December 15, 1956.

A. Yes sir.

Q. When did you start buying corn on the basis of the New York Central 5½ cent rate.

A. I think it was in January of '57 if I am not mistaken.

Q. Did you receive a bid at that time? Is that what [fol. 283] started the purchase on that basis.

A. Yes sir.

Q. From whom did you receive the bid.

A. Well, different ones, Cargill Grain Company, Payne Stotler, Illinois Grain Service.

Q. That was in January of 1957.

A. Yes sir.

Q. Do you know whether these same producers from which you have bought during this period are now selling to the elevators at Blackstone and Ransom.

A. I couldn't say, sir.

Q. Do you know that formerly they did.

A. No.

Q. On occasion.

A. Sure, they can go wherever they please to.

Q. Do you know how the prices which you have bid on the basis of 5½ cent rate have compared with the prices bid by Ransom and Blackstone.

A. No, I wouldn't know that.

Q. Would you know whether they were higher or lower.

A. No, I would not.

Mr. Legg: I have no further questions.

By Mr. Freeman:

Q. Mr. Cahill, you mentioned in your testimony that you moved corn from January 1 to August 28, 1957. Did you move any corn from Budd in the last couple months.

[fol. 284] A. Have we.

Q. Yes.

A. Yes sir.

Q. How much.

A. I don't know but I'd say 25, 30 cars.

Q. Beg your pardon.

A. 25 to 30 cars I'd say approximately.

Q. In addition to being an elevator operator, are you also a Grain Buyer or Broker.

A. No, sir, just a Grain Buyer from the country run grain.

Q. What has been the destination of your sales in the last couple months on the New York Central, Kankakee?

A. Yes sir, and Indianapolis, Indiana.

Q. Is that wet corn or corn which had gone through your dryer.

Mr. Leiper: I object to the question on the basis that it assumes he has a dryer.

Mr. Freeman: I shall ask a question prior to that to solve it.

Mr. Leiper: It is beyond the scope of the direct examination. Are you sticking to that one question, Mr. Freeman.

Exam. Dahan: Objection overruled.

By Mr. Freeman:

Q. First I'll lay the ground work and ask him if he has [fol. 285] drying facilities.

A. Yes sir.

Q. When were those put in.

A. At the start of the corn season.

Q. Approximately when did you begin operating.

A. Three months ago.

Q. Now my question is were you selling wet corn or corn which had been dried in your elevators.

A. Some of each, sir.

Q. Some of each.

A. Yes sir.

Q. Some of each to Kankakee.

A. Yes sir.

Q. Some of each to Indianapolis.

A. Yes sir.

Q. You don't load corn at any other place than Budd.

A. No sir.

Q. Your testimony indicates you have a storage capacity of 300,000 bushels. Is that storage capacity in any measure for CCC grain.

A. Yes sir.

Q. What proportion of that storage capacity is for CCC grain.

A. 250,000.

Q. 250,000.

[fol. 286] A. Yes sir.

Q. Is that stored in what are referred to as tin cans.

A. Flat storage, flat storage buildings.

Q. That's Butler cans.

A. No, they are Butler buildings but they are not cans. That's two different types.

Q. So you have an elevator capacity of 50,000 bushels for free corn.

A. Yes sir.

Q. Have you had the capacity for free corn for some time or has there been a change in that? Have you built new facilities in addition to your drying facilities.

A. No sir.

Q. Do you buy exclusively from farmers or do you also buy from other elevators.

A. No, only in one or two cases where they want it dry, all others is from farmers.

Q. The wet corn you sell would be exclusively from farmers; when it is dry it may or may not be from another elevator.

A. That's right.

Q. Do you know the ultimate destination of corn that you sell delivered or to move via the Kankakee belt.

A. No, I wouldn't, sir.

Q. In the time in which you have been associated with [fol. 287] Cahill Grain Company did you ever have a substantial movement of corn via the Kankakee belt.

A. No sir.

Mr. Leiper: Could I have that question read.

(Question read.)

Mr. Leiper: Will you specify the period.

Mr. Freeman: Prior to December 15, 1956.

The Witness: I said no, we never shipped hardly any before 1956.

Mr. Freeman: Mr. Examiner, so we may be clear I again have a series of questions with respect to the service characteristics. Do I correctly understand that I ask these questions and if the objections were made that the objection would be sustained.

Exam. Dahan: Operating questions.

Mr. Freeman: Yes, concerning service characteristics of this witness.

Mr. Leiper: Of the railroad.

Exam. Dahan: In other words what you want to do is go on a fishing expedition.

Mr. Freeman: No, I want to ask this man about the service characteristics at his elevators of bringing in empties, taking out loads. I am asking you if I ask that same series of questions as I proposed asking the last witness, if objections were made they would be sustained.

[fol. 288] Exam. Dahan: Well, you ask the question and let the objection be made.

By Mr. Freeman:

Q. How many empty cars do you usually order at a time.

A. It all depends on the amount of grain we have bought, at the present one to five, sometimes one car, sometimes five.

Q. How long is it from the time you order a car until you get the car.

Mr. Leiper: Mr. Examiner, I would desire at this time to place an objection to this line of cross examination on the ground it goes beyond the scope of the direct testimony.

Exam. Dahan: Objection overruled.

Mr. Freeman: Will you read the question.

(Question read.)

The Witness: Well, it all depends on when you order it. You can order it this afternoon and it will come in this evening some time.

Q. Has that been true all during the past two months.

A. Yes sir.

Q. Does the west bound or east bound train drop the empty at your elevator.

Mr. Leiper: Mr. Examiner, I wish to object to that. This has been covered by a New York Central operator [fol. 289] witness who was the proper person to testify.

Exam. Dahan: Objection sustained.

Mr. Freeman: I have a series of further questions now that I would like to ask along this same line. I don't want to go through the motions of asking them if there is going to be an objection each time.

Exam. Dahan: Do you have any questions as to what the operating witness has said.

Mr. Freeman: Yes, I think in many respects the testimony of the operating witness was grossly inadequate as to the specific kind of service on this road.

Mr. Hayes: We share that feeling strongly.

Mr. Murphy: The operating witness was here and available for cross examination. They had him as long as they wanted him and I object to characterization of the operating witness' testimony and I don't think it is proper for them to attempt to go into a line of cross examination on a witness here who has not testified about railroad operations. He is testifying about the operations of a country elevator.

Exam. Dahan: There may be testimony brought out by a witness, not an operating witness that may discredit the testimony given by the operating witness. The objection is sustained.

Mr. Hayes: You pointed out that testimony might be [fol. 290] brought out that would discredit the other witness and you are sustaining the objection?

Exam. Dahan: He doesn't know what the railroad does.

Mr. Hayes: At his elevator he does.

Mr. Murphy: Not necessarily, Your Honor, he is in the grain business. We had an operating man in the transportation business this morning and if they had any doubt about what he had to say they could have asked him questions, they asked him enough as it was. They had him a long time.

Mr. Hayes: And we consistently got the answer "I don't know about that".

Mr. Freeman: I am only asking the witness questions that I assume are in his knowledge. If he doesn't know he can certainly say so.

Mr. Murphy: It is certainly beyond the direct testimony.

Exam. Dahan: I sustained the objection.

Mr. Freeman: In that case I have no further questions.

By Mr. Chartrand:

Q. Mr. Cahill, if I understand your testimony correctly, prior to the establishment of this 5½ cent rate the corn went predominantly to the river.

A. Yes sir.

Q. Then after the establishment of the $5\frac{1}{2}$ cent rate it moved predominantly by the New York Central.

[fol. 291] A. Yes sir.

Q. Now when the $5\frac{1}{2}$ cent rate was put in, did it affect the price of corn at your elevator?

A. Not to a great extent, no. They could get corn trucked to our elevator cheaper than they could go the extra miles to the river elevator.

Q. Was your bid on a New York Central track higher than after the establishment of the $5\frac{1}{2}$ cent rate?

A. Yes sir, I believe it was.

Q. Now I'd like to consider for a moment the price of the river, the river bid and your New York Central bid just before the establishment of the $5\frac{1}{2}$ cent rate. Which one was the highest?

A. The river, sir.

Q. On an average of about how many cents a bushel?

A. Oh, I don't believe I could answer that, sir, correctly.

Q. Ten cents a bushel?

A. Oh, no, no.

Q. One cent a bushel?

A. No, it would be more, I'll guess and say three to four cents.

Q. All right, three to four cents. Then if it was corn in your elevator, you or the producer had to bear the cost of trucking to the river, is that right?

[fol. 292] A. The producer does.

Q. Did you ever have any grain from your elevator trucked to the river?

A. Yes, sir.

Q. Did you bear the expense of that?

A. We have a truck, sir.

Q. You have a truck. Then the cost of operating that truck or the cost of having it hauled to the river was borne by you?

A. Yes sir, in that instance.

Q. In that instance. Now therefore the river price met your elevator would in fact be the river bid less the cost of the trucking?

A. That's right.

Q. All right. Now after the 5½ cent rate went into effect, which was the highest, the river bid or the New York Central bid?

A. The river bid would still be somewhat higher, but it still couldn't, I won't say as good as the rail bid because trucking wouldn't be as much to our elevator.

Q. I am just talking about bids.

A. The river elevator was higher, it still is.

Q. Taking the first six months of 1957 when this 5½ cent rate was in full swing, what was the relationship between the river bid and the New York Central bid?

[fol. 293] A. It varies, sometimes the river bid is highest and sometimes the New York Central is highest. I couldn't say for six months.

Q. As an average which would be the highest?

A. I'd say they are about even, sometimes one is ahead of the other and vice versa.

Q. Let's assume for a moment they were in fact even, there would have to be deducted from the river bid the trucking to the river?

A. Yes sir,

Q. I believe you indicated it was about 3 cents a bushel?

A. Approximately, yes, it all depends on the miles.

Q. Therefore the Budd price based on a river bid would be 3 cents less than the New York Central bid per bushel?

A. Would you say that again, sir?

Q. I will put it this way. The river bid and the New York Central bid are exactly the same, let's say \$1.30 but since you have to stand the 3 cents over to the river it really means \$1.27 in your elevator if it goes to the river or \$1.30 New York Central track price.

Mr. Murphy: When you talk about a river bid are you talking about a bid in trucks at the river and in rail cars?

Mr. Chartrand: When I say river bid that is weighed down at the rail.

[fol. 294] Mr. Murphy: Truck?

Mr. Chartrand: Yes. I approach it this way, he has grain in his house and he makes an election—

Mr. Murphy: I just wanted to make a clarification.

By Mr. Chartrand:

Q. Then what I said in this hypothetical question where the two prices are the same and there is 3 cents for trucking to the river, corn at your elevator if it went to the river was worth \$1.27 whereas if it was loaded in a box car at the New York Central it would be worth \$1.30?

A. Yes sir.

Mr. Chartrand: Thank you.

By Mr. Erickson:

Q. Mr. Cahill, just one or two additional questions. Were you here when I interrogated the prior witness?

A. Yes, sir.

Q. In the construction of the price to the farmer, the bid to the farmer where it is trucked direct to the river prior to the 5½ cent rate, would his statement be approximately the same as yours?

A. Yes sir, I imagine it would.

Q. The mechanics would be the same?

A. Yes sir.

Q. The only difference would be a matter of mills depending on miles?

[fol. 295] A. Yes sir.

Q. I notice you said you have your own truck?

A. Yes sir.

Q. Is that used only for trucking from your elevator?

A. Yes sir.

Q. You don't use it for trucking from the farm?

A. No sir.

Q. Are you also a contract carrier with tariff on file with the Illinois Commerce Commission?

A. Yes sir.

Q. So that the trucking charge that is made or is considered in a river delivery is an amount which is published and on file with the Illinois Commerce Commission?

A. Yes sir.

Q. So it is a standard amount. In getting a river bid is that based on some standard such as say No. 2 yellow corn?

A. Yes sir, that's the only bid we ever receive.

Q. So whenever we talk about bids we are talking about a recognized Government standard of No. 2 yellow corn and with respect to the New York Central Kankakee bids as you described them that would be the same, would it not?

A. Yes sir.

Q. In your direct testimony you referred to increased rail business. What was your volume of business in the [fol. 296] year 1957, total volume of shipments, I am not talking storage now, I am talking shipments?

A. I Just couldn't say, sir.

Q. What was your volume in 1956?

A. I'd have to look on the record, sir, I couldn't tell you.

Q. Can you from your general knowledge of management say that '57 was equal to or greater than '56?

A. I wouldn't say it was any greater.

Q. You would say it was approximately the same, so that when you made the statement to the effect that you didn't hurt your competing elevators located on other railroads, that wasn't based on any knowledge of what their volume was then or later?

A. No sir, to the best of my knowledge we haven't.

Q. So you have no specific knowledge as to whether they have been hurt or not been hurt?

A. They have never complained to me if they have.

Q. I noticed in reply to one question you said when you order cars you get from one to five empties as you request them. How much side track facility do you have alongside your elevator, how many cars will it hold?

A. Oh, approximately six I'd say.

Q. You could hold as many as six cars?

A. That's a guess, sir.

[fol. 297] Q. So any cars you order would come and be placed right at your facility?

A. That's right.

Q. Then as you load it you would use your own mechanical means of moving one loaded car to another position?

A. That's right.

Mr. Erickson: That's all.

Exam. Dahan: Any redirect?

Mr. Leiper: Yes.

Redirect examination.

By Mr. Leiper:

Q. Mr. Cahill, does your company prefer to ship rail rather than sell your corn at the river?

A. Yes sir, I'd say we do.

Q. And is that because your company likes to perform the normal operation?

Mr. Hayes: Just a moment, I object to the leading and suggestive form of the questions to his own witness. Ask him why.

By Mr. Leiper:

Q. Why, Mr. Cahill?

A. We have never had any trouble getting box cars and we can load when we feel like it. When the river elevator can't get barges or the river flows over, they have to have you wait a day or two or a few days.

Q. Would the trucking rate from certain of the farms from which you have drawn your corn be less than 3 cents [fol. 298] per bushel?

A. From our—

Q. From the farms from which you draw your corn?

A. Sometimes it is more, sometimes it is less. It depends on the mileage.

Q. It depends on the mileage?

A. Yes sir.

Q. I believe you stated, I am not sure, I believe you stated in your direct testimony the area which you considered to be your trade area, is that correct?

A. Yes sir.

Mr. Freeman: What was the answer?

The Witness: Yes sir.

Mr. Leiper: Yes, he has so stated.

By Mr. Leiper:

Q. Upon what do you base your opinion that your rail business has not harmed the business of your competitors?

A. To the extent that they have never come over and complained to us or to me.

Q. Do you assume that your competitors have their own trade area?

A. Yes sir, I do.

Q. Have you encroached upon your competitors' trade area?

A. Not to our knowledge, I haven't.

Q. I believe you stated in answer to certain cross exam-[fol. 299] ination that you deduct the expense of trucking from the price to the farmer when it goes to the river, when the corn goes to the river?

A. It all depends if the producer wants us to or not.

Q. How about corn which comes from the farm to your elevator for rail shipment?

A. Same way.

Q. It is there deducted as well?

A. They pay for it but sometimes they pay it personal to the truckers, sometimes they leave it with us.

Q. You mentioned some corn which came to your elevator which was eventually trucked to the river in your truck. Had you acquired title to that corn, was it your corn?

A. Yes sir, we bought it.

Q. You purchased it? You were questioned also with respect to your volume in 1956. Had you any volume at all in 1956?

A. Oh, the usual amount. It is probably the same as '55. It will vary from year to year one way or the other.

Q. Let me call your attention to your direct testimony. Can you state again what your volume was through the period 1954 to '56?

A. What was that question again, sir?

Q. I withdraw that last question: Mr. Cahill, has the distance, I should say the relative distance to the river [fol. 300] or to the New York Central any bearing upon whether the corn will move either to the river or to the New York Central?

A. Well, sure, the mileage, if it is 15 miles from our elevator to the river where maybe the producer only lives a mile from our elevator or 3 miles or something like that.

Mr. Leiper: That's all I have.

By Mr. Bradford:

Q. Mr. Cahill, in answer to a question on cross examination you named several firms from which you received bids in 1957. One was Cargill, was that bid from Cargill for rail shipment or—

A. Both, sir, they have both bids.

Q. Did you actually sell corn to Cargill for rail shipment?

A. Yes sir.

Q. Do you know the destination of that corn?

A. No, I couldn't say offhand.

Q. You also stated you shipped corn, you had a rail movement from your station to Kankakee and Indianapolis?

A. Yes sir.

Q. Now the shipments you made to Indianapolis, were they sold on direct bids from Indianapolis or did somebody order it there?

A. A broker ordered it there, sir.

[fol. 301] Q. A broker in your territory?

A. He lives in Kankakee, sir.

Q. And he represented an Indianapolis firm and bought for them and ordered shipment, is that a fact?

A. I would say that's right, sir.

Q. And as to those shipments you received the full rail price delivered Indianapolis, or was it track price or station?

A. He gives us a track price our station, what we will receive for the corn.

Mr. Bradford: That's all I have.

Mr. Murphy: I'd like one question. Mr. Chartrand questioned you in regard to bids and included in his question was the assumption that the bids were being made on corn that was then in your elevator. Is it the usual practice to handle the corn through your elevator before it moves to the river elevator?

A. No sir.

Mr. Murphy: Thank you. That's all.

Mr. Schier: I have one question, if I may, Mr. Examiner. Mr. Cahill, when you truck corn from the territory north

of Budd to the river elevators, you did that for profit, didn't you?

A. We don't truck from the producer ourselves.

Q. You do not truck from either the farm to the river or [fol. 302] from the farm to the rail elevator?

A. No sir, not with our own trucks, sir.

Mr. Erickson: I have two questions on recross in light of a statement which the witness made.

Recross examination.

By Mr. Erickson:

Q. You said in response to a question that you purchased corn that you trucked, in the purchase of the corn did you take into consideration this trucking cost, published trucking charge from your elevator at the time of entering into this purchase agreement? In other words did you charge off the amount of trucking cost in the purchase of that corn?

A. To the producer?

Q. To the producer.

A. No sir, I give him a price delivered at our elevator.

Q. Delivered at your elevator, and the price delivered at your elevator is determined how? This is prior to the New York Central rates.

A. Whatever commission we feel we should take.

Q. And you did not include the cost of moving that grain from your elevator to the river?

A. Yes, we deducted that, trucking charge plus our commission.

Q. So am I correct in saying when you purchase corn to be trucked at your elevator you took into consideration [fol. 303] the trucking cost or charge as published from your elevator to the river in arriving at a basis of bid to the farmer less your commission?

A. Yes sir.

Q. All right now, second question. You stated that you do not truck from the farm to the river. Do you have

knowledge of what the trucking charges are on a direct movement from farm to the river?

A. No sir, it varies according to miles that the producer lives.

Q. Is the rate for a comparable distance of 15 miles for example the same when it is from the farm to the river as it is from the elevator to the river?

A. Yes sir.

Q. Exactly the same?

A. To the best of my knowledge it is.

Q. If it were not, then you would stand to be corrected, if the tariff would show otherwise?

A. Yes sir, I think it is approximately 3 cents a bushel.

By Mr. Freeman:

Q. I don't know if the record is clear as to what Mr. Cahill has said with respect to what he considers to be his normal buying area and I would like to ask one question on that. Have you stated what you consider to be your normal drawing area and if so what is it?

[fol. 304] A. I'd say approximately 5 miles, maybe not in all cases.

Mr. Freeman: That's all.

Exam. Dahan: Do you have any questions, Mr. Hayes?

Mr. Hayes: Yes sir.

By Mr. Hayes:

Q. You mentioned two elevators, one owned by Continental Grain and one by Glidden on the river. Where are they located?

A. Seneca, Illinois.

Q. Both at Seneca?

A. Yes sir.

Q. You said something about the river freezing. When did you last actually see the Illinois River frozen?

A. I can't say that I ever saw it, but they called and said—

Q. Never mind what somebody called and said to you. These elevators at Seneca of Continental Grain and Glidden, did they have storage capacity?

A. Oh, I couldn't say how big their elevator was, sir.

Q. Who are your present competitors?

Mr. Leiper: Mr. Examiner, he has stated already on his direct testimony where his competitors were located.

Mr. Hayes: He named two, I want to know where the others are.

Mr. Leiper: When does cross examination end? This is certainly not responsive to anything I asked on redirect.

Exam. Dahan: This is recross. Do you have any other [fol. 305] competitors?

The Witness: Mr. Gibbon, sir.

Mr. Hayes: Is that the gentleman that testified just before you?

The Witness: Yes sir.

Mr. Hayes: That's all.

Exam. Dahan: Any further questions of this witness?

You are excused, Mr. Cahill.

(Witness excused.)

Exam. Dahan: Call your next witness.

Mr. Leiper: Mr. Hoyle.

BENJAMIN G. HOYLE was sworn and testified as follows:

Direct examination.

By Mr. Leiper:

Q. Please state your name.

A. Benjamin G. Hoyle.

Q. Mr. Hoyle, are you the President of the Farmer's State Bank of McNabb, Illinois?

A. Yes, I am.

Q. How long have you been associated with the Farmer's State Bank?

A. 44 years.

Q. Are you a resident of McNabb?

A. Yes.

Q. Do you own a farm as well as being associated with [fol. 306] the Farmer's State Bank?

A. Yes sir.

Q. Where is that farm located?

A. West of McNabb.

Q. About how far?

A. One is a mile west and one is a mile south.

Q. Is that two farms?

A. Yes.

Q. How long have you resided in McNabb or in that vicinity?

A. 44 years.

Q. Mr. Hoyle, how would you characterize McNabb and the surrounding area?

A. I would characterize it as being an agricultural community dependent largely upon the production and sale of the products of agriculture for its livelihood.

Q. Is the production and sale of corn important to your community?

A. Yes, it is. McNabb is in Putnam County. Putnam County grows and sells more corn than any of the other field crops. In my opinion, the welfare of our community hinges in large part upon the ability of the farmer to produce and market his corn and especially upon the price which he receives for his corn.

Q. Have you an opinion, Mr. Hoyle, as to whether the farmer would benefit from competition in the bidding for [fol. 307] his corn?

A. Yes. When the only bid which the country elevator receives is from the river elevators, the latter can control the price which the farmer will receive. When there are bids based on different factors from two or more sources the price to the farmer will generally be higher. For many years the farmers in our community were unable to get the best price for their corn because freight rates dictated that corn must move to the river. When the corn moved to the river the farmer had to bear a greater trucking expense thereby diminishing the profits from the sale of the corn. However when the New York Central reduced its rate, other sources for bids were opened up and the corn was then trucked the shorter distance from the farm to the country elevator and the farmer was able to retain more of the profit from the sale of the corn.

A. Oh

Q. W

Mr.

his

then, that the farmers in your com-
the 5½ cent rate?

is available for cross examina-

ation.

By Mr. Hayes:

Q. How close is this "farm of yours west of the river [fol. 308] to McNabb?

A. One mile west.

Q. And how close is it to the nearest river elevator?

A. I'd say about 11 miles.

Q. Before December 15, 1956 where did you, to whom did you sell the corn that you raised on that farm west of the river?

A. I didn't sell any corn.

Q. You didn't sell any?

A. No sir, I fed it all.

Q. I see. Would that be true of your other farm?

A. Yes sir.

Q. You ship hogs and not corn?

A. Hogs and cattle.

Q. Where do you ship them?

A. Chicago.

Q. How do they get there?

A. Truck.

Q. Prior to December 15, 1956, Mr. Hoyle, to whom, what persons if you know was the corn raised in the area of McNabb sold to?

A. Prior to December 15, 1956?

Q. That's the date when this 5½ cent rate went in, prior to that to what persons was most of that corn sold?

A. Outside of what was sold to local feeders it would go [fol. 309] to the river elevators.

Q. What persons was it sold to?

A. Well, it would be Cargill, Illinois Grain I think it is, and Continental and W. W. Dewey and Sons, depending on the location of the farm.

Q. It would go a lot of it then or the greater part of it to the river to Spring Valley and to the south?

A. Spring Valley and Hennepin.

Q. Do you know which way that corn went, what its destination was after it got to the river?

A. No sir.

Q. You referred, sir, in your direct examination to the best price for corn. What is the best price for corn?

A. The best price, I just don't understand quite what you mean by that.

Q. You used the phrase, I was asking what you meant by it.

A. Well, we'll look and see. The best price is where it can be delivered for the least expense and receive the same price per bushel.

Q. And where was the best price for corn raised in the area of McNabb before this 51½ cent rate went in?

A. I would say the river.

Q. Is any of it still moving to the river?

A. I think so, some. I wouldn't be sure, I think so, yes.

Q. Mighty little.

[fol. 310] Mr. Leiper: Are you testifying, Mr. Hayes, or is that a question?

Mr. Hayes: The witness and I are getting along all right.

Mr. Leiper: I object to that if it is a question. It sounded like a statement to me.

Mr. Hayes: The witness understands me and so do you. The witness can answer the questions.

Mr. Leiper: There is an objection pending.

Exam. Dahan: I'll let him answer.

The Witness: I am not operating the elevator, I don't know where the corn goes.

Mr. Hayes: Thank you very much, that's all.

By Mr. Legg:

Q. When you say that the grain or corn in McNabb area was sold to the river elevators prior to December 15, 1956,

you meant that it was sold to the McNabb elevator or some elevator in the area which then sold to the river elevator?

A. Yes.

Q. And the McNabb elevator or the other elevator selling the corn to the river elevator would sell to the river elevator which would give him the best bid out of the bids made by the three or four river elevators named.

Mr. Murphy: I object, I don't understand it and it might be objectionable.

[fol. 311] Exam. Dahan: Read the question please.

(Question read.)

Exam. Dahan: I am going to ask you to re-frame the question.

By Mr. Legg:

Q. I withdraw that and ask this one. You have already stated that the sales were made to two or three or four named river elevators in your previous testimony, did you not?

A. Prior to a certain date.

Q. Prior to December 15, 1956, yes, and presumably the corn was sold by the elevator operator at McNabb or such other elevator operator as did purchase the corn and was re-selling it to the river elevator which made the highest bid of the elevators out of those three or four you have named.

A. Well, I think the farmer a lot of times designated the elevator to which his corn would go.

Q. Do you know on what basis he would make that designation?

A. One of them is a co-operative elevator and some farmers are very co-operatively minded.

Q. Do you know any other basis of designation?

A. No, not unless one elevator bid more than the other.

Q. One river elevator bid more than the other?

A. That would be the only reason I would think. I don't [fol. 312] know how they decide that, I didn't sell any corn.

Q. Would the McNabb elevator be the principal buyer of corn in this area for resale to the river elevator?

A. That's right.

Mr. Legg: I have no further questions.

By Mr. Erickson:

Q. Mr. Hoyle, I just have a question or two. Throughout the examination of these witnesses from the country they have indicated a rather narrow range of area in which they do business. Now as a banker located at McNabb, Illinois, how extensive is the area of your banking contact with them, in other words with your customers?

A. Well, that's—

Q. Does it extend much beyond McNabb?

A. I would say it extends beyond the range of the elevator.

Q. Would it extend over as far as Seneca?

A. Yes, in some instances.

Q. Now the purpose of my question is do people from these areas not located on the New York Central do business with your bank?

A. Some of them.

Q. And when you expressed your opinion that the farmers in your community are benefited by this rate, would that include elevator operators that are not located on the New York Central Railroad?

[fol. 313] A. I said it benefited the farmers more than the elevator operators.

Q. Do you have any people doing business with your bank that are located on these other lines?

Mr. Murphy: Do you mean farmers or elevator operators?

Mr. Erickson: I am talking elevator operators.

The Witness: Elevator operators that do business with us, we have none of them but the McNabb Grain.

By Mr. Erickson:

Q. So you have no knowledge as to whether competitors of elevators on the New York Central Railroad were or were not injured by this matter and your comments are strictly

confined to such farmers as can avail themselves of the New York Central.

Mr. Leiper: I object to the question on the grounds it goes beyond the scope of direct testimony. He has not stated in his direct whether or not this rate is harmful or beneficial to any grain elevator.

Mr. Erickson: Isn't the farmer and grain elevator in some degree at least one and the same?

Mr. Leiper: I don't want to argue with you, but I have an objection pending.

Mr. Hayes: Will you just read the question?

Exam. Dahan: The objection has been overruled. Is the witness able to answer the question?

The Witness: Would you repeat the question?

[fol. 314] Exam. Dahan: Was there a question?

Mr. Erickson: There was a question.

(Question read.)

By Mr. Erickson:

Q. Is that not so?

A. Do you say competitors located on the New York Central?

Q. Competitors of grain elevators located on the New York Central.

A. I wouldn't know whether they were hurt or not, I just don't know.

Mr. Erickson: All right, that's all.

Exam. Dahan: Any redirect?

Mr. Leiper: No further questions.

Exam. Dahan: You are excused, we'll have a five minute recess.

(Witness excused.)

(Short recess.)

Exam. Dahan: Come to order, please. Call your next witness.

Mr. Leiper: I'll call Mr. Noder.

Mr. Hayes: May I ask before counsel starts this next witness, may I ask a question for information? Are the rest of the witnesses that will be offered to the conclusion of today's hearing witnesses from country like the last three witnesses? In other words if that were the case I might not have to stay here.

[fol. 315] Mr. Leiper: No, that is not the case. There will be other witnesses of other categories.

Mr. Hayes: All right.

M. J. NODER was sworn and testified as follows:

Direct examination.

By Mr. Leiper:

Q. Please state your name.

A. M. J. Noder.

Q. What is your occupation?

A. I am the Manager of the McNabb Grain Company, Inc., located at McNabb, Illinois.

Q. Will you describe your company and the business it conducts?

A. Principally our company is a grain dealer, we buy and sell grain. We also sell feed, wire, coal and lumber. In addition, we do grinding for our customers. The company has been in operation for 44 years. Our grain elevator has a capacity of 25,000 bushels and is located on The New York Central Railroad.

Q. During the period 1954 through 1956, did your company elevate corn for shipment via The New York Central?

A. No free corn. The freight rate was so high during this period that we could not afford to ship our corn by rail. So far as corn was concerned, we became merchandisers. We purchased corn from the farmers for delivery and [fol. 316] elevation at the river elevators. For instance, in 1956, approximately 90% of the corn we purchased was trucked directly from the farm to the river elevator without any handling by our elevator. We elevated only what corn we needed for retail purposes.

Q. Were you able to ship your corn via The New York Central during the period January 1 through August 30, 1957?

A. Yes. By taking advantage of The New York Central $5\frac{1}{2}$ cent rate, we were able to quote the farmer a price based on rail delivery, elevate the corn ourselves and load box cars for shipment via The New York Central. There were regular and substantial shipments throughout this period.

Q. Did your use of the $5\frac{1}{2}$ cent rate during this period result in any expansion of the territory within which you normally purchase corn?

A. No. I estimate our territory to be approximately a 6 mile radius around our elevator. We did not draw our corn from beyond that area. In my opinion, we purchased very little corn during this period that we would not have purchased anyway for elevation at the river.

Q. What effect, if any, did the discontinuance of the $5\frac{1}{2}$ cent rate on August 31, 1957 have upon your ability to load corn for rail shipment?

A. We were no longer able to load for rail shipment. We switched immediately to purchasing corn for delivery [fol. 317] and elevation at the river elevators.

Q. When corn which you have purchased is trucked from the farm to your country elevator, or from the farm to the river elevators, who bears the expense?

A. The corn will bear it, corn or farmer. Corn coming to our elevator is generally hauled in the farmer's own vehicle, while corn going to the river elevators is generally hauled in for-hire trucks. In either case, the expense for the hauling is borne by the farmer.

Q. Does any advantage accrue to the farmers when corn is purchased on the basis of the $5\frac{1}{2}$ cent rail rate?

A. Yes. They are benefited by the fact that their price is no longer determined by a single bid but by competition between several bids.

Q. In your opinion, is the $5\frac{1}{2}$ cent rate necessary to enable your company to ship corn via The New York Central?

A. Yes.

Q. Mr. Noder, could you tell us the various river points to which you sold corn in 1956?

A. Continental at La Salle, Cargill at Spring Valley, Illinois Grain at Hennepin, Dewey at Henry and I think one job in Lacon to Continental.

Mr. Leiper: The witness is available for cross examination.

Cross examination.

[fol. 318]

By Mr. Hayes:

Q. Why didn't it all go to one elevator on the river?

A. Because I would send it to whichever one where the farmer would have the littlest hauling. If you are familiar with our site there we are just in the bend of the river and some of the corn can go to Henry, some can go to Hennepin, some to Spring Valley and some out east of town can go to La Salle and wherever, I about make the farmer call his own shot where he goes to. It doesn't make any difference to us because the price is most of the time the same between the four or five points that I go to.

Q. Some of the time there is a difference between the prices that are bid by the river elevators, some of the time?

A. Some of the time, you are correct in that.

Q. Are the river elevators at the points you mentioned in competition for the accumulation of grain?

A. Yes, I would say they are.

Q. Is there more than one elevator at McNabb?

A. No sir.

Q. While this 5½ cent rate was effective, did the grain in whose marketing you had a part go by New York Central?

A. Yes.

Mr. Leiper: I would ask that that question—

[fol. 319] Mr. Hayes: Just a minute, this is my cross examination, Mr. Examiner, and I object to interference.

Mr. Leiper: Mr. Examiner, just for clarification, he said grain instead of corn. I would like him to specify whether he meant grain or corn.

Examiner Dahan: I believe he meant corn, did he not?

Mr. Leiper: That's what I hope he meant.

Mr. Hayes: Yes. You so understood me, Mr. Witness.

The Witness: Corn, well, yes.

By Mr. Hayes:

Q. When this corn went to the river prior to the institution of the 5½ cent rate to some one of these several elevators, could you make a statement as to which elevators or elevator got the bulk of it?

A. Well, yes, I will. Cargill got the most I would say and probably Dewey second.

Q. Where is Cargill located?

A. Spring Valley.

Q. And who has the elevator at La Salle did you say?

A. Continental.

Q. Well, you take Cargill at Spring Valley and La Salle, the Continental Elevator, they would get the bulk of it from your area.

A. Continental at La Salle doesn't get too much because that's a little out of our territory.

Q. But there is some?

[fol. 320] A. Yes, we do buy some over east of us that can move to Continental at La Salle with less hauling, but mainly it goes to Hennepin, Spring Valley or Henry.

Q. How far east of you did you buy before the 5½ cent rate.

A. Oh, five, six miles, five miles I'd say.

Q. When you were buying corn before the 5½ cent rate was that corn elevated in your elevators.

A. No sir, only what we wanted to retail, what they needed to send back to the country, we would take that in there but the rest all went directly to the barge.

Q. Well you mean to an elevator on the river.

A. That's right.

Q. There was no direct loading at the barges from trucks that you know of.

A. I just don't understand. Yes, I think your river houses loaded direct from their trucks to the barges through their house.

Q. That's what I mean, it went through the house.

A. That would be the only way they could get it there that I'd know about.

Q. That's the only way I know of too. Now are there any temporary movable loaders around McNabb or have there been since this 5½ cent rate went into effect.

A. None that I know of.

Q. You mean none that you know personally.

[fol. 321] A. Well, there are just none.

Q. Do you know of any anywhere along the line of the New York Central.

A. Well, by the grapevine I have heard of it east of Streator out in that area. I don't personally know of any of that operation. I wouldn't say that there is but I have heard there is, what it amounts to I have no idea.

Q. You referred in your direct testimony to the time when an injunction went into effect as being at a time when you ceased to be able to ship corn on the New York Central. When that injunction went into effect and while it was in effect, do you know whether New York Central had any published rate for the movement of corn out of McNabb east bound that was not enjoined.

A. Well I think—

Q. Do you know now.

A. Yes, I was going to say I know they had one but I ain't agonna tell you what it is. I do know it was so high, you just couldn't touch any corn going out of McNabb by rail. I know that.

Q. You know there was one.

A. Yes, I do.

Q. That was not enjoined.

A. That's right. In fact I used it a little at the end of the season when the barge couldn't take corn and I got [fol. 322] mad and I bought the corn and put it on rail at a penalty to him.

Q. How much was that rail.

A. I don't know, I sold the corn track McNabb, I never paid attention to the rate.

Q. What was the price.

A. The farmer got \$1.06½.

Q. What was it at the river.

A. \$1.08½ at the river at the same time if he could have got there with it.

Q. About 3½ cents difference.

A. Well, make it 2½. It was at a time when there was some demand for rail corn and the price was a little better than under normal conditions. I would say that.

Q. Tell me about that.

A. That's all I know.

Q. When was the time.

A. It was in October.

Q. Of what year.

A. 1957.

Q. And the 5½ cent rate was in effect then.

A. No, it was before that came back.

Q. What made the price better than it was at the river at that time to ship it by rail.

A. Somebody evidently wanted some corn. I don't even [fol. 323] recall where I shipped it to but it was one of the times when the barges got fouled up and didn't have any room and we couldn't go there with it and he wanted to get rid of his corn and he was willing to sacrifice some of his money and let me ship it.

Q. Have there been other such instances in your experience before the 5½ cent rate went into effect.

A. No that was, as I remember that would be the only free corn that I had shipped in years that wasn't applied to the 5½ cent rate.

Q. In other words the 5½ cent rate except in such instances when the river services for some reason were inadequate or unable to take it has been entirely moved off the river and on to the railroad by the 5½ cent rate for free corn.

A. Without it was located real close to the river, yes, I'd say you were about right.

Q. What do you mean by real close to the river.

A. Well, I buy some corn that the hauling would prohibit moving it from its location to our elevator, not very much, but I do get a little.

Q. And how close to the river—

A. Would that corn be?

Q. Yes.

A. It would be raised within a mile of the river elevator.

Mr. Hayes: I think that's all.

[fol. 324] By Mr. Legg:

Q. I have a few questions. How far would this corn be from your own elevator that you talked about which was sold to the river elevators because of its proximity to them.

A. It would be a matter of 12 or 14 miles.

Q. Was the corn free corn that you described which was shipped in October on the rail the 1956 crop or 1957 crop.

A. '56.

Q. There was no 1957 crop moving at that time.

A. Not any of any consequence anyhow.

Q. Why was that.

A. Just wasn't ripe yet.

Q. Did your elevator have any difficulty in getting corn out from the farmers during the 1957 harvest season.

A. Difficulty getting corn from the farmers?

Q. Yes sir, was the harvest slow that year.

A. It was wet, let's say, now slow.

Q. It was wet.

A. That's right.

Q. Was it wet enough that it was not safe enough to ship at the time.

A. I didn't have any. Well, I think I run into one car that got into heating before it got to destination. The rest I got off in good shape.

Q. How much non-free corn did you ship prior to December 15, 1956.

A. That would be government corn.

Q. Well, whatever you call non-free corn, you characterized corn as free corn.

A. Just off hand I don't remember, but approximately in 1957 a hundred sixty to eighty bushels I would say.

Q. That's in 1957.

A. That's what I shipped in '57 of government corn.

Q. About how much did you ship prior to December 15, 1956.

A. Oh, that's too far back for my memory. I wouldn't hardly venture a guess on that.

Q. Could you give me a statement for the year 1956 alone.

A. No.

Q. Could you estimate it.

A. It would be purely a guess if I did and I'd just as leave not guess on it.

Q. Would it be more or less than the amount shipped in 1957.

Mr. Leiper: Mr. Examiner, the witness said he didn't care to guess.

The Witness: No, I wouldn't care to guess on that. It would be purely a guess and it wouldn't be of any value to anybody if I did guess because I'd have to be in the office and look it up. I would say it was substantially less than in 1957. I'd put it that far for you and that's as far [fol. 326] as I'd want to go.

Q. Did you say the elevators on the river to which your elevator sold corn were on La Salle, Spring Valley, Hennepin and Henry.

A. That's right, in an instance to Lacon.

Exam. Dahan: Try not to volunteer. If you make voluntary statements you just bring on more questions.

Mr. Murphy: Thank you.

By Mr. Legg:

Q. Was this business profitable to your elevator.

A. Yes.

Q. I am referring to the business which you did with the river elevators prior to the effective date of the rate.

A. Yes.

Q. Was it more or less profitable than your business with the corn shipped via New York Central after the 51½ cent rate went into effect.

A. About the same, might do a little better by rail at times.

Q. Does anybody in the McNabb area make a bid to farmers for corn other than your elevator.

A. No.

Q. That was true before the 51½ cent rate went into effect and it is true now.

A. Yes.

[fol. 327] Q. How far west of McNabb will your elevator buy corn.

A. Not very far, we get to the river to quick, three, four miles.

Q. How far are you from the river at that point.

A. I think 6 miles.

Mr. Legg: I have no further questions.

By Mr. Freeman:

Q. Do you know the ultimate destination of the corn you sell to the river.

A. No.

Q. When you load a box car do you have to put a man in the box car to level it.

A. No.

Q. Can you tell us when you last were able to ship free corn on the Kankakee Belt before the 5½ cent rate was put into effect.

A. It was more than 20 years ago.

Q. More than 20 years ago. How full do you load box cars at your elevator.

A. What quality grain.

Q. I am talking about corn.

A. Wet or dry? Dry corn you can overload, wet corn you can't load them. Which are you referring to.

Q. Give me a figure for both.

A. It depends on the capacity of the car and its cubic capacity.

[fol. 328] Q. Do you get two size cars, generally 110 capacity, and the larger car.

A. You are liable to have 100 cap with more cubic capacity than you get in 110, so anywhere from 1,700 to 2,000 bushel is about a guess on these cars.

Q. Which figure is for wet and which figure for dry.

A. It would be wet. Dry corn you can overload.

Q. Wet corn you get from 1,700 to 2,000 bushels.

A. Right.

Mr. Freeman: That's all.

By Mr. Erickson:

Q. Mr. Noder, I was impressed with your statement that there's no shipment of free corn by the New York Central railroad because the rate was so high during the period that you could not afford to ship corn by rail. To my mind that presumes that there must have been some place from which you got a bid for New York Central delivery. Where do you receive your bids for New York Central track delivery.

A. Cargill, Dewey, and Payne Stotler.

Q. Cargill, we are talking about New York Central shipment.

A. That's right.

Q. Now as you receive bids from these parties from day to day on a given day do they generally amount to about the same or are there variances.

[fol. 329] A. It won't vary over a quarter of a cent. That would be about the limit unless somebody got off wrong and he'll be higher than that.

Q. As a general thing then—

A. They will be pretty close together.

Q. The price bid to you for New York Central delivery will be approximately the same from the different bidding parties located at different places.

A. Right.

Q. For track, station loading.

A. That's right.

Q. With respect to river bids prior to this 51½ cent rate, how did you find a bid on a given day at these different points you referred to, were they approximately the same.

A. Just about all the time they were the same.

Q. So it would be fair to say then that the bid price at La Salle or Spring Valley or Henry would be the same on a given day.

A. (Nodded).

Q. But they would vary from day to day, wouldn't they? In other words Thursday's bid may not be the same as Friday's bid.

A. That's right.

Q. But you have stated here that there is a freight rate of 51½ cents, that didn't vary from day to day, did it.

[fol. 330] A. The freight rate didn't.

Q. No, but that was the important thing in changing the direction of the flow from the river to the New York Central track loading, is that correct.

A. That's right.

Q. And the variances in the prices from day to day did not materially affect that, it was still New York Central load, Thursday, Friday or Monday, whatever the case might be.

A. That's right.

Q. Now I noted you made a statement here to the effect that your general radius was 5 to 6 miles before the 5½ cent rate and later I understood you to say you had a customer about a mile from the river and he was located about 12 to 14 miles from you, is that correct.

A. That's right.

Q. Do you have any other cases like that of customers that distance from you.

A. That's the only one I have that close to the river.

Q. Are there others beyond the 6 mile radius.

A. Not as a general rule. I do have them, yes, spotted here and there.

Q. Do you ever do any loading for any party other than yourself.

A. No.

[fol. 331] Mr. Erickson: That's all.

Mr. Leiper: Mr. Noder, with respect to those customers which lie outside of your general trade area, did you have those same customers before the 5½ cent rate was put into effect.

The Witness: Substantially, yes.

Mr. Leiper: That's all that I have, Mr. Examiner.

Mr. Schier: I have a question please. Is there any law that restricts elevator operators in the area from which you may draw corn.

The Witness: No.

Mr. Schier: It is generally then a gentleman's understanding, one elevator operator with the other, that you restrict yourself in to certain territories.

The Witness: Well, we have a good neighbor policy and I hope we abide by it. We do get corn out of our territory

and the reason is because we are a co-op and we pay a patronage dividend and it makes it rough on our competition, but that—I don't chisel on the prices to get the business.

Mr. Schier: Do you find that the river elevators more or less observe this same practice? Do you find for example that trucks travel greater distances to river elevators than they do in your area.

The Witness: Oh, they travel tremendous distances in [fol. 332] instances. I don't know how common a practice it is, but for instance one morning when one river elevator opened up he had trucks from four states setting in front of his elevator. I didn't see it but I visited with a guy over the phone and he tells me that so I am assuming it is the truth.

Mr. Schier: Well, from your common knowledge you would assume they truck great distances.

The Witness: I know they come from out-of-state. In fact I have sent grain back with the same truck that came out of Iowa.

Mr. Legg: You say that your customers are now substantially the same as they were before the 5½ cent rate went into effect.

The Witness: That's right.

Mr. Legg: If there is a difference is the difference an increase in the number of customers you have.

The Witness: Yes.

Mr. Legg: How much is that increase.

The Witness: It would be very small.

Mr. Legg: On a percentage basis what would you say.

The Witness: To tell you the truth I don't know how much business I did last year, but it wouldn't be 5%. I am sure of that.

Mr. Legg: Thank you.

[fol. 333] Exam. Dahan: The witness is excused. Call your next witness.

(Witness excused.)

ARTHUR C. SCHIER was sworn and testified as follows:

Direct examination.

By Mr. Murphy:

Q. Will you state your name and business address, sir.

A. Arthur C. Schier, Vice President General Foods Corp., 250 North Street, White Plains, New York.

Mr. Hayes: Mr. Examiner, is the witness reading.

The Witness: I have notes before me that are pretty well scribbled up and most of it is extemporaneous.

Mr. Hayes: He was looking at his notes for his name, address and business, and I wondered.

The Witness: I assure you I know that quite well.

By Mr. Murphy:

Q. In what capacity are you employed by General Foods.

A. I am Vice President in charge of Traffic.

Q. Will you describe your functions in that position, Mr. Schier.

A. My function primarily is to develop philosophies and policies with respect to our area of assigned responsibility, give directions to and oversee the work assigned to my staff associates, to cooperate with several general managers of [fol. 334] the centralized divisions in their transportation problems, and to see generally that the affairs of the corporation in the area of my responsibility are conducted within the law.

Q. Will you please describe briefly your background and experience in the transportation field.

A. I have been Vice President of General Foods Corporation since 1942 and in the 12 preceding years roughly I was General Traffic Manager and Assistant General Traffic Manager for that company. In prior years I was associated generally in water transportation industry embracing waterways including the Illinois River, the Great Lakes, the New York State Canal, inter-coastal and worldly water routes.

Q. Will you state the position of your company in this proceeding and state the reasons for that position.

A. General Foods Corp. is here of course in support of the carriers.

Mr. Hayes: Which carriers.

The Witness: The New York Central.

Mr. Murphy: Perhaps you could defer your questions until after he has completed his statement, Mr. Hayes.

Mr. Hayes: The witness has answered.

The Witness: General Foods Corp. buys substantially 80 million dollars worth of transportation a year in the [fol. 335] delivery of its finished products and in the movement and assembly of its raw materials at our many producing plants throughout the United States, one of which is our corn mill division located at Kankakee, Illinois. We have long learned that we are dependent because of the needs, because of the fact that we are in national distribution for a dependable, strong, healthy national railroad transportation system, and we are interested wherever possible in contributing to the development of that particular industry. We are vitally interested in retaining our competitive opportunity to purchase our corn requirements in our normal geographic area. The New York Central railroad territory immediately west of Kankakee made possible by the publication of the 5½ cent rate on corn from stations on the New York Central west of Kankakee. Now three things have been accomplished since the effectiveness of that rate. First we can now buy corn competitively with the Chicago interests. Second, the railroads are again in business on the west end division and third we have restored the dignity of the local elevator operator once more. This freedom of competitive equality of purchase opportunity was denied to General Foods prior to December 15, 1956 by virtue of publication by the A. R. Mechling Barge Co. of rates from Illinois river points to Chicago.

Mr. Hayes: That's A. L. Mechling.

[fol. 336] The Witness: (continuing) ranging from 4¼ cents per hundred pounds to 5 cents. As outlined by Witness Tascik, elevators located on the Illinois River which parallel the Illinois Central on the north have attracted substantially all the free corn from New York Central and Illinois Central rail elevator stations to the river elevators by virtue of this low barge rate. Corn being bought in this

area on the basis of Chicago price less freight, naturally the river operators having access to barge operation and the low barge rates are in a position to receive truck corn while corn buyers such as ourselves attempting to purchase in this same area could before December 15, 1956 only avail ourselves of rail service and rates. We were penalized in our purchase program by the difference between the barge rates and the rail rates. Now we are unwilling to concede to the Chicago elevator houses that the territory immediately to the west of theirs belongs to them and to them alone divine right. We feel as a matter of fact that the low barge rate effective from this area has caused what is substantially a restraint of trade and I think it has been evidenced by some of the barge elevator operators here today that they have had quite singularly one bid and too frequently that same bid from different river elevator operators. Corn arriving in Chicago by barge may be re-[fol. 337] shipped without restriction from that point by rail, barge corn having the same price as rail corn with respect to rail re-shipping rates from Chicago. Kankakee not being on the Illinois River is dependent on rail service, the alternative to this rail service would be truck. However, truck corn unlike barge corn is not presently entitled to the application of the rail re-shipping rate east from Chicago. There are times, Mr. Examiner, when Chicago houses have as a matter of fact sold us corn, river corn, delivered to us at Kankakee while the 5½ cent rate was in effect at a price as low as we can buy it on the west end. I presume that has to do with the position that that particular grain house or elevator operator took or chose to take for his own reasons on that day. I don't know whether he offered that same price to others.

Mr. Tascik's exhibits showed quite clearly that the movement of corn from these Illinois River elevators into Chicago has progressively and substantially increased year after year since the barge service was created for the movement of corn back in I believe 1939. Once more, this corn does not belong to the barge line by any divine right. As a matter of fact I'm of the opinion that the Preamble to the Act imposes an obligation upon the Interstate Commerce Commission to preserve the inherent rights of each mode

of transportation, and by each I mean both rail and water, [fol. 338] and it is quite obvious that the water line has by far the land's share of this movement. The publication of this $5\frac{1}{2}$ cent rate restoring to us and other buyers of corn the equality of competitive purchase opportunity has and undoubtedly will in the future mean that the river elevator operators will bid competitively with us and other buyers in this area for their corn requirements. As corn is bid more competitively in each elevator territory, each elevator operator, grain merchant, commission house and so forth enters into the market to buy his current requirements. The farmer benefits from this as has been quite clearly established. There are times when our Kankakee elevator is not in the market in this area. This permits others to purchase more advantageously on those days and the same situation could favor us when the river elevators are not in the market.

Now protestants have tried hard to create the impression that the $5\frac{1}{2}$ cent rate is unduly and unnecessarily low, whereas we believe the fact of the matter is that the $5\frac{1}{2}$ cent rate is actually higher than the barge rate with its range of $4\frac{1}{4}$ to 5 cents; as Witness Tascik, I believe it was yesterday, depicted that the railroad rate is currently 119% of the barge rate and in Ex Parte 212 now scheduled to become effective February 15th, the rate will be 124% of the barge rate. I should think it would be a fair handicap [fol. 339] in this sort of a raise for the barge line, quite fair. Corn may be trucked from the farm to either a river elevator or to a rail elevator. The mileage difference can have as many variables as there are farm locations. One could make examples of corn available on a farm immediately adjoining a river elevator. The trucking expense to that elevator would of course be lower than to a rail station 10 miles distant. Conversely the corn grown adjacent to the rail station would have exactly the opposite effect. Much has been said about the level of this rail rate, but little has been said about the level of the water rate. I wonder why this water rate established as low as it has been and as long as it has been has not been increased in the face of obvious rising operating costs. Certainly wages of tug captains and crews have been increased, certainly

costs of maintenance have gone up. Everything associated with any form of transportation has gone up and in my judgment far greater than this rate has been increased and I wonder too whether certain pressures are imposed upon this Mechling Barge Co. by perhaps some of its big shippers who are already well identified as barge operators in other waters, the Great Lakes, the Mississippi, the New York State Canal and High Seas if you please.

Mr. Hayes: Just a moment. Would you read me that [fol. 340] last sentence beginning with "I wonder"?

(Record read.)

Mr. Hayes: Thank you.

The Witness: It has been established that corn moving through a river elevator into barges is subjected to the same elevator costs as those attached to the movement of corn through a rail elevator into a box car. We believe the 5½ cent rate is competitively required to provide equality of purchase opportunity in this area, not only to us but to other buyers, and we will present a witness, Mr. Graves, director of purchasing of our corn mill division to give further substantiation to this opinion. We believe the 5½ cent rate to be compensatory to this railroad.

Mr. Hayes: Just a moment, that's going just a little too far. This man is an elevator operator, he doesn't know a thing about railroad costs. He is undertaking to bring to this record a self serving assertion on a matter concerning which he has neither general or specific knowledge and we move it be stricken.

Mr. Murphy: Mr. Examiner, Mr. Schief has qualified himself as having been in the transportation business for many many years and I think he is competent to express an opinion.

Exam. Dahan: We are merely accepting it as an opinion [fol. 341] of his. The commission will determine whether or not it is material.

Mr. Hayes: Mr. Examiner, as everyone within the sound of my voice knows this witness has not qualified himself to give an opinion and that is the basis of my motion and I renew it and I press it.

Exam. Dahan: We'll strike it then.

The Witness: Let me say I have been told by officers of the New York Central railroad that this rate would be compensatory.

Mr. Hayes: I object to what officers of the railroad told him as a self serving statement not subject to cross examination and maybe without particular knowledge of what they were talking about.

Exam. Dahan: I believe you should leave it to the New York Central railroad to make its own showing as to whether or not the rate is compensatory.

The Witness: One of my associates, Mr. Harron, will produce some exhibits to show car mile earnings on corn originating at West End Station and transmitted to Kankakee by the New York Central railroad, and I think he will produce other evidence to substantiate my contention that they are obviously producing compensatory revenues.

Mr. Legg: I ask that that be stricken. He has no right to characterize the testimony of others before it is introduced. [fol. 342]

Mr. Freeman: I will have to join in that motion.

Exam. Dahan: I'll let it stand. Go ahead.

Mr. Legg: I might ask that there be questions put to the witness. It is very hard for us to put an objection without our knowing what he is going to say.

Mr. Murphy: The question that was put to him is what he is answering.

Mr. Hayes: What was the question.

Mr. Murphy: State the position of the General Foods Co. and the reasons they take that position.

Exam. Dahan: Go ahead, Mr. Schier.

Mr. Murphy: I think this is a perfectly proper responsive answer.

The Witness: That's all I have. I think the time to quarrel with that, Mr. Hayes, is when you see the exhibits.

Mr. Hayes: Mr. Schier, you and I aren't going to quarrel about anything.

Exam. Dahan: Just a minute, Mr. Murphy, do you have any questions.

Mr. Murphy: I have no further questions.

Exam. Dahan: All right, Mr. Hayes.

Cross examination.

By Mr. Hayes:

Q. I was particularly interested and had the stenographer read back to me the insinuation that you put on [fol. 343] this record, sir, that the rates of the A. L. Meehling Barge line were what they are as a result of pressures imposed upon that line by certain of its large shippers. Do you remember throwing out that insinuation.

A. I remember that I said I wonder if.

Q. Did you by so saying intend to insinuate that that was the fact.

A. I simply wonder what caused this particular movement of grain to move for 18 years with practically no increase in the rate, and it is my transportation experience, sir, that this is quite peculiarly, this is singularly the only instance I know of in the world where that is true.

Q. Will you do me the favor, sir, to tell me what you think it is that I asked you.

A. Would you read the question please.

(Question read.)

Mr. Murphy: I submit that that was a responsive answer.

Mr. Hayes: You would think so. I don't and it obviously isn't.

By Mr. Hayes:

Q. I have asked you, sir, not for a speech but to answer this question, did you by making that statement concerning your wonder as to whether the rates of the Meehling Barge line were a response to pressures exerted by its large ship-[fol. 344] pers intend to insinuate that that was the fact. Did you or did you not.

A. Something of course has acted to retain a rate level for an unusually long period of years in face of the fact that each and every other mode of transportation that I am aware of has very substantially increased its rates. For example, the rates that we are currently paying to the railroads generally on products used by General Foods Corp. have been increased more than 100% since June 30,

1946. The ocean steamship rates that we are paying on our import green coffee from Brazil, cocoa from Africa, tapioca from Batavia, coconut from the Philippines has gone up substantially indeed. The barge rates that we pay on sugar from New Orleans to Evansville, Indiana have gone up substantially in that period. The barge rates we pay on green coffee from New York to Montreal have gone up substantially in that period. I know of no instance, sir, where we are able to buy transportation anywhere near the 1939 costs, and I repeat, I wonder why this is true on the Illinois and I just wonder. I am privileged to do that.

Q. Are you going to answer the question I asked you? I asked you if you meant to insinuate that the rates of the A. L. Mechling barge line—

Mr. Murphy: I object to the repetition of the question.

By Mr. Hayes:

Q. (continuing) were a response to pressures of its large [fol. 345] shippers.

A. I have given you the only answer I intend to give you, Mr. Hayes.

Mr. Murphy: Your Honor, I object to the repetitions.

Exam. Dahan: Have you given an answer to that question.

The Witness: Yes, I have indeed.

Exam. Dahan: If you don't like the answer, that's all we can do.

Mr. Hayes: We are entitled to an answer.

Exam. Dahan: I don't want to get into an argument between counsel and witness. That is his answer and you just can't get another answer by repeating the question.

Mr. Hayes: You can rule that he must answer my question responsively if you wish.

Exam. Dahan: Well, I can't rule to have anybody answer a question in a manner that will satisfy you. If that is the answer the witness wants to give, I can't make a ruling and say that counsel who propounded the question is not satisfied with the answer and he wants another answer. I can't make that kind of a ruling.

Mr. Hayes: All I want is a responsive answer.

Mr. Murphy: I submit that you have it.

Mr. Hayes: I have objected to the answer as not being responsive.

[fol. 346] Mr. Murphy: It has been ruled on.

Exam. Dahan: Do you have any other answer to that question.

The Witness: I have none. I thought it was most complete.

Mr. Hayes: What is the ruling to my objection.

Exam. Dahan: Your objection to what.

Mr. Hayes: My objection is that the answer given by the witness at great length says a great many things but did not answer the question I asked and I have a right to object to an answer which is not responsive to what I inquire of him.

Exam. Dahan: You want the answer stricken you mean.

Mr. Hayes: No, I want a responsive answer.

Exam. Dahan: You have the answer. If you want the answer stricken—

Mr. Hayes: Mr. Examiner, as you well know I don't want that answer stricken.

By Mr. Hayes:

Q. Your name, sir, is what.

A. Arthur C. Schier.

Q. I have been interested in your comments although they were not as I felt responsive that there is nowhere else in the world that you know of where you can buy water transportation or rail transportation for a price that was lower than it was in 1939.

[fol. 347] A. Correct.

Q. What was the rail rate by New York Central from Moronis, Illinois to Kankakee in 1939.

A. I don't know. I wasn't in any way associated with the business to have an awareness of it.

Q. What was the rate via New York Central from any of these Kankakee Belt stations to Kankakee, Illinois in 1939.

A. I don't know.

Q. I am not involved in the same case as all I have there is the transportation from

Kankakee and my parallel is what is the Kankakee versus Chicago

Q: I thought you knew all about these rates and were telling me at great and complete length in your answer to my previous questions. Don't you know as a matter of fact, sir, in view of your interest in this company at Kankakee and your long connection with it that the rates of that Kankakee Belt by rail to Kankakee were higher than 5½ cents in 1939.

Mr. Murphy: Your Honor, I submit they are higher now and Mr. Hayes is mis-stating the question. Are we talking about a re-shipping rate, proportional rate or what.

The Witness: Mr. Hayes, let's get down to earth. You are too smart to ask a question like that and I have greater respect for you—

Exam. Dahan: We'll take a recess.

Mr. Hayes: I have asked a question. Are you going to answer it or talk to me.

Exam. Dahan: Off the record, we'll take a recess.

[fol. 348] (Short recess.)

Exam. Dahan: Come to order please. I want to ask counsel for protestants in their examinations to confine their questions to statements of fact that have been made by the witness. I appreciate when the witness makes a statement that facts are interposed with arguments. Do not question on any argumentative matter but merely on statements of fact.

Mr. Hayes: Then there would be very little to cross examine this witness on, Mr. Examiner.

Mr. Freeman: I share the view that Mr. Hayes has just expressed and I have no questions of this witness.

Mr. Hayes: I have quite a few yet.

By Mr. Hayes:

Q: I might ask you first when this plant was built down there at Kankakee that you have been talking about.

A. In 1938, sir.

Q. When did you first become associated with that plant.

A. In 1935, with the company I became associated, of course, I mean.

Q. Well, again would you please answer what I asked

you—

A. Your question was when did we put a plant at Kankakee and I answered 1938.

Q. My last question was when did you first become associated with that plant.

[fol. 349] A. When it was built.

Q. That's what I wanted to know. You referred to a natural territory, a natural buying territory. Do you consider the territory immediately to the west of Kankakee a natural buying territory for Indianapolis.

A. Our buyer does.

Q. You mentioned that there was a considerable period of time when you were associated with water transportation.

A. Yes sir.

Q. Was it your experience at that time that there was a differential between the rail and water rate?

A. Yes sir.

Q. About what did it run percentage wise.

A. It depends upon what trade route you are talking about.

Q. Well, could you make any statement about that, general or particular.

A. Oh, I think probably from 110%, perhaps 5% one way or the other.

Q. That is quite a spread, isn't it.

A. Just about this spread.

Q. Which would be the lower rate, the water or the rail rate.

A. The water rate.

Q. And did that sometimes have the effect of moving commodities by water that would have gone by rail if the [fol. 350] rates had been similar.

A. It did.

Q. You have heard the testimony here that since this 5½ cent rate went into effect elevator operators testified that they ship their corn to Chicago by rail. You heard that testimony.

A. I heard that.

Q. Do you regard it as a competitive situation when the grain goes to Chicago by rail and not a competitive situation when the grain goes to Chicago by water.

A. I am not aware of the fact that the barge lines, sir, have lost any volume since this rate was in effect. I think it

has been made crystal clear to the contrary that they have had more corn since it is in effect than they have ever had before.

Q. Is that the predicate of your testimony.

A. Yes.

Mr. Hayes: I have no further questions.

Mr. Murphy: For clarification, are you referring to barge corn to Chicago or rail corn to Chicago.

Mr. Hayes: I think the record is clear.

Mr. Murphy: I don't know whether it is clear, I don't know whether when you asked the witness about movements to Chicago whether you were talking about rail corn or barge corn. The record doesn't show there was a substantial movement to Chicago through the Kankakee Belt, Mr. Hayes.

Mr. Hayes: I think the record is perfectly clear.

Exam. Dahan: You can read the record, Mr. Chartrand?

By Mr. Chartrand:

Q. Mr. Schier, I'd like to ask some questions that are factual in nature. However I understand Mr. Graves is going to testify with regard to buying at Kankakee.

A. He is.

Q. If any of these questions get into the area that could be answered by him, will you please advise me. First, does General Foods own any elevators on this Kankakee Belt line.

A. We do not.

Q. What percentage of your corn receipts at Kankakee plant is CCC government corn.

A. He'll have to answer that.

Q. Do you have the receipts of corn off of the line, for the past period of years.

A. He has that.

Q. What are your daily requirements of corn at Kankakee.

A. I don't know, he has that.

Q. Well, do you know whether or not the value of corn in that area is predominantly set or predicated upon an eastern demand.

[fol. 352] A. I think he is in a better position to give you the answer to that right now.

Q. Well, as a traffic man how were the rates made by the trunk line territory prior to the time the barge lines entered into the picture, rail rates.

A. Mr. Harron who is on my staff in charge of rates will have exhibits on that and once more is better qualified to testify on that.

Q. Is he going to testify.

A. Yes.

Q. Was it at your insistence that the New York Central docketed the application that ultimately resulted in this 5½ cent rate.

A. There was no insistence, Mr. Chartrand, on anyone's part. It was a cooperative venture developed to accomplish just exactly what it has accomplished, the competitive equality of purchase opportunity for General Foods and some worthwhile tonnage for the New York Central railroad.

Q. At the time the public hearing was held on that subject did you appear and make a statement.

A. I did.

Q. Did you make a statement to the effect there to the carriers considering the matter that if it should develop that there was a destructive competitive picture that re-[fol. 353] sulted from the establishment of this low 5½ cent rate, that you were willing to have it changed if that developed as a fact.

A. Mr. Chartrand, this hearing as you are aware was held in mid '56 some time. Now the answer to your question is yes, I did make that statement and now from memory I am going to give to you the text of it as best my memory will serve me. When I made the statement I asked that the secretary record it as a matter of fact and you are at liberty to check that statement against my memory and I'll buy the statement as it is recorded. I said that if for example the elevator operators on the West End Division of the Kankakee Belt in their exuberance to get more and more corn attracted to their elevator expanded their area of operation so that it invaded the parallel railroad elevator, wait a minute, so that if they extended their purchase

operations to an extent that adversely affected rail car loading, not truck corn to the river, but rail car loadings of free corn and that were brought to our attention, we would cut back the purchases of our corn in that area, a policy of course way beyond anything a river elevator would have dreamed of doing.

Q. Do you still stand by that position today.

A. I said it then and I repeat it now.

Q. Of course that wouldn't have any binding effect or [fol. 354] morale obligation upon purchases at Indianapolis or at Paris or Danville.

A. I spoke for our company.

Q. For your company. If it should develop upon this record that that actually did happen, what would you be willing to do.

A. You must recall, Mr. Chartrand, that I said if a railroad executive of one of those parallel lines brought this to my attention and said it was indeed bringing a great harm to them, and by harm to them I mean minimizing their free corn movement by rail, if he would take it up with me we would then take an action. So far no railroad man has even indicated to me that such a harm has come to them.

Q. But if it develops on this record?

A. Then let's take it up when it develops and see what the circumstances are and understand them completely and we'll cross that bridge when we get to it. It is generally accepted when we make statements on the record we stand by them.

Q. Then when it is developed on this record if called upon will you then make a statement as to your position.

A. Yes.

Mr. Chartrand: That's all.

Exam. Dahan: Any redirect.

[fol. 355] Mr. Murphy: Yes, just one question. Mr. Hayes questioned you about a movement of corn to Chicago. Do you understand that a substantial volume of corn moved from the Kankakee Belt line west end station to Chicago.

The Witness: Free corn.

Mr. Murphy: That's right.

The Witness: I do not.

Mr. Murphy: That's all.

Exam. Dahan: The witness is excused.

(Witness excused)

Exam. Dahan: Do you have a short witness.

Mr. Murphy: Not a short one at this time. Yes, we have one short one.

R. J. GEEKIE was sworn and testified as follows:

Direct examination.

By Mr. Leiper:

Q. Please state your name.

A. R. J. Geekie, Traffic Manager for the Illinois Cereal Mills, Paris, Illinois.

Q. Can you describe for us briefly your company and the business it conducts.

A. It is a dry corn mill and our products are corn meal, corn flour, corn grits and hominy feed.

Q. Could you tell us then what the bushel capacity of your elevator at Paris is.

[fol. 356] A. It is about 225,000.

Q. Are you generally familiar with the sources from which your company purchases corn, that is with respect to your duties as traffic manager.

A. Yes.

Q. Prior to December 15, 1956 was your company desirous of purchasing rail corn from origins on the New York Central west of Kankakee.

A. Yes, we tried to buy as much there as possible, our grain department did.

Q. Were the rail rates prior to December 15, 1956 such that your company was able to buy corn.

A. No, our grain department claimed all the corn went to the low barge rate to Chicago. Of course there was no corn offered to us.

Q. In the period 1954 through 1956 were you able to make any purchases in that area.

A. It seems like we got two cars in during that period.

Q. During the first 8 months of 1957 while the 5½ cent proportional rate on corn was in effect, did your company purchase corn in rail cars.

A. Yes, our brokers, we got 327 cars.

Q. And was the 5½ cent rate eventually applied to that car, that method of transit.

A. Yes.

[fol. 357] Mr. Leiper: That's all.

Cross examination.

By Mr. Hayes:

Q. Did you say Paris, Illinois.

A. Yes sir.

Q. And your business is that of a milling company.

A. Corn mill, yes.

Q. Where did you get your corn before December 15, 1956.

A. We buy all Illinois grain, all over Illinois and local in adjoining counties and in Chicago and St. Louis.

Q. Do you get an adequate supply.

A. Yes, it gets a little tight at times.

Q. And does that meet your requirements.

A. Yes.

Mr. Hayes: That's all.

By Mr. Legg:

Q. How far is Paris from Kankakee.

A. I'd say it is 117 miles.

Q. Do you buy corn only from Illinois, St. Louis and Chicago markets.

A. That's about all, and local Illinois corn.

Q. And local Illinois corn. You do not buy corn from any of the Indiana markets:

A. No.

Q. How far is it from Paris to the nearest Indiana market.

A. Oh, I don't know, I guess Indianapolis would be the [fol. 358] nearest market, that's a hundred miles.

Q. Why do you prefer Kankakee to Indianapolis.

A. Our traffic moves east.

Q. It is because the proportional rate allows you to re-ship if the corn comes from Kankakee and it would not—

A. It would be a back haul if we brought corn in from Indiana and attempted to ship east.

Q. The mill product would not be eligible for the proportional rate if you obtained your corn from Indianapolis.

A. No, you wouldn't have any proportional or through rates via Paris.

Q. Did you say how much corn you mill in the course of a year? If you did, I didn't hear it.

A. I didn't say anything about that.

Q. How much is it.

A. I can tell you by the day.

Q. How much would it be by the day.

A. It would average between 20 and 30 thousand bushels a day, so it would be up and down.

Mr. Chartrand: That would be between 10 and 15 cars roughly.

The Witness: Just roughly.

By Mr. Legg:

Q. That's an average over the whole year.

A. Yes.

Q. How constant is that.

[fol. 359] A. Last year it was constant.

Q. And is it 5 days a week or 7 days.

A. Well, it would average 6 days a week.

Q. Has your corn consumption been fairly constant over the period of the last few years.

A. I would say yes.

Q. When you began to buy corn from the Kankakee Belt, did you curtail your purchases from some other source.

A. We probably bought less from Chicago and less from the western part of Illinois.

Q. Do you know to what extent.

A. No, I couldn't tell you.

Q. What approximately is the price advantage of Kankakee corn over Chicago corn.

A. I couldn't tell you that.

Q. Why do you buy the Kankakee corn instead of the Chicago corn.

A. I don't buy it, our grain department buys it.

Q. Oh, I see. You do know that there is a price advantage on the Kankakee corn?

Mr. Murphy: I object. He testified they didn't buy corn there prior to the time the rate was in effect and that they did after the rate was in effect.

Mr. Legg: There must be a reason, Mr. Murphy, and I would like to find out what the reason is.

[fol. 360] The Witness: It is a country run corn we call it in milling. Corn at Chicago is termed elevator mix I think. That is, our millers term it that way.

By Mr. Legg:

Q. Do you know whether there is any price advantage of the Kankakee corn over the Chicago corn.

A. No, I wouldn't be able to tell you.

Q. What is the advantage of country run corn over elevator mix corn.

A. It mills better.

Mr. Legg: I have no further questions of the witness.

By Mr. Freeman:

Q. I have a few questions. I understand you bought less corn from the west of you after this rate went into effect.

A. Probably less of the connecting lines to the New York Central west of us.

Q. You are served by the New York Central, that's their line to St. Louis.

A. To St. Louis and from Chicago to Cairo. We are served by both lines.

Q. And New York Central goes east from Paris.

A. East from Paris and west.

Q. Do you ship throughout the east or do you have a rather local distribution.

A. No, we ship throughout the east, the south, Canada and the West.

[fol. 361] Q. Does your product go out entirely by rail.

A. No, some goes by truck, a small percentage.

Q. A small percentage by truck.

A. Yes.

Q. You mill all the corn that is brought in there and you send the product out as a milled product.

A. That's right.

Q. What does that load approximately.

A. It loads to a 100,000.

Q. Your product.

A. Yes.

Q. Is that in bulk.

A. In bulk and in bags.

Q. Did you say 200,000.

A. No, 100,000.

Q. What is the range, from what to what.

A. The minimum is 40,000 pound shipments and we have a lot of 100,000 pound shipments.

Q. It averages from 40 thousand to 100 thousand.

A. That's right, the average is around 80 I would say.

Q. Do you compete with other mills located not only in the middle west but the east in your shipments to the east.

A. We compete with mills in the mid-west.

Q. In so far as you ship, maybe I misunderstood, do you [fol. 362] ship your product all the way to the eastern seaboard.

A. Yes.

Q. And for that market do you also compete with mills in the east.

A. Well, there are very few mills in the east. We sell there so we must compete there.

Q. Are there any mills in Buffalo.

A. I don't know as there's any corn grown in Buffalo.

Q. Is your product used almost exclusively as feed or is it for human consumption.

A. It is for human consumption and for feed.

Q. How would that break approximately.

A. About a third for feed.

Q. Does your product go to ultimate destination or does it receive some sub-transit—

Mr. Leiper: Mr. Examiner,—never mind.

By Mr. Freeman:

Q. Does it receive some transit between Paris and its ultimate destination.

A. It may, some receive some transit at Buffalo because it is billed there for mixing, that would be the feed.

Q. And the grain for human consumption.

A. I doubt that. I don't know whether that, I think we sell to the consumer right there.

Mr. Freeman: That's all I have.

By Mr. Chartrand:

Q. Mr. Geekie, did you say that you received two cars [fol. 363] off this line in 1956.

A. No, it was prior to that.

Q. Prior to that.

A. But I couldn't tell you when. I think it was just 2.

Q. And 327 cars in 1957.

A. That's right.

Q. How did those cars in 1957 route into Paris.

A. They route to Kankakee then NYCW to Danville then NYC.

Q. Did any come down IC.

A. No.

Q. Then you process the corn there.

A. Yes.

Q. What is your major product that you make out of this corn.

A. Well, there wouldn't be any major product. We grind grits, corn meal, corn flour and the offal is grit.

Q. What are grits made of.

A. I couldn't tell you.

Q. Do you ship from Paris to Cleveland for example.

A. Yes.

Q. Do you have transits at Paris on the proportional rate from Kankakee to Cleveland.

A. No.

Q. What would you pay.

[fol. 364] **A.** Well, we wouldn't use that billing, we would use billing off the IC or Wabash.

Q. Where can you go with this billing? Do you go to Pittsburgh?

A. No, we go to Buffalo, and beyond on the New York Central.

Q. So that would be from Kankakee through Paris, thence to Buffalo.

A. Then beyond on connecting lines or direct New York Central.

Q. Let's say to New York City.

A. Either New York Central or the Erie or the Lehigh Valley.

Q. Are you subject to a penalty at Paris under the Three-Way-Rule.

A. No.

Q. It is waived on the New York Central.

A. It is waived on the New York Central.

Q. Are you subject to a penalty to any of the destinations where this tonnage will work.

A. No.

Mr. Chartrand: That's all, thanks.

Mr. Erickson: No questions.

Exam. Dahan: Any redirect.

Mr. Leiper: No.

[fol. 365] **Exam. Dahan:** You are excused. We'll recess until 9:30 tomorrow morning.

(Witness excused)

(Whereupon at 4:50 p.m. the hearing was recessed until 9:30 a.m. Friday, January 31, 1958.)

[fol. 368] PROCEEDINGS OF JANUARY 31, 1958

Exam. Dahan: I just want to announce that the hearing, if continued until Monday will be held in Room 4, Board of Trade Building.

Come to order please. Are you ready to proceed?

Mr. Murphy: Yes, Your Honor. I'd like to call Mr. Graves.

LAWRENCE E. GRAVES was sworn and testified as follows:

Direct examination.

By Mr. Murphy:

Q. Will you please state your name and business address?

A. Lawrence E. Graves, Manager—Purchasing, General Foods Corporation, Kankakee, Illinois.

Q. How long have you been employed by General Foods Corporation?

A. Thirty years.

Q. In your capacity are you responsible for the purchasing of corn for your operation at Kankakee?

A. Yes, I am, and have been for the past nineteen years.

Q. Describe some of the functions incident to the purchasing of corn.

A. Corn is bought in a highly competitive market on low margins; therefore, in the performance of my functions, it is necessary for me to be aware of competitive markets, [fol. 369] competitive transportation costs, sources of supply and demand, both of my company and of other buyers. It is also necessary for me to be informed as to bids to the country placed by other buyers.

Q. Do you consider the area served by The New York Central west of Kankakee as a natural source of supply of corn in the Kankakee mill?

A. Yes, we do, and that was one of the reasons why the mill was located at Kankakee.

Q. In recent years, have you been able to buy any substantial amount of corn from elevators along the New York Central for rail delivery to your Kankakee plant?

A. Not until December of 1956, at which time The New York Central established a rate that permitted us to enter that market again.

Q. Have you bought corn from this area continuously since December of 1956?

A. Yes, except that we were forced to go out of that market in September 1957, after the five and a half cent rate was enjoined. However, we are now back in the market. We reentered the market in November 1957, before the injunction was vacated as we were confident that the injunction would be lifted.

Q. Were your expectations realized, Mr. Graves?

A. They were.

[fol. 370] **Q.** Describe the handling of corn from the time it leaves the farm where it is grown until the time it is placed in your elevator at Kankakee when moved by rail.

A. The corn is shelled on the farm, hauled via truck to the country elevators, elevated into boxcars, moved by rail to Kankakee and then is elevated into our elevator.

Q. Describe the handling of corn when moved via the barge route to Chicago.

A. The corn is hauled to the barge elevator via truck, elevated into barges, moved via the Illinois Waterway to Chicago and elevated into a terminal elevator.

Q. Who bears the transportation cost of trucking from farm to country elevator?

A. The farmer bears the trucking or transportation cost from farm to the rail elevator, or the river elevator.

Q. How would the truck costs borne by the farmer on deliveries to country elevators compare with his truck costs on deliveries to river elevators?

A. The truck costs vary by the mileage, the greater the distance, the greater the cost. At a midway point between the Illinois River and The New York Central, truck costs would equalize. From a point nearer the river than the elevators on The New York Central, the truck costs to the river would be less than the truck cost to the country elevator and, of course, the converse would be true from [fol. 371] farms nearer the country elevator than the river elevators.

Q. When you buy corn from country elevators on the New York Central for rail shipment to Kankakee, on what basis is it purchased?

A. We purchase it f.o.b. rail car at the country elevator station.

Q. What services are generally performed by the country elevator operator before he makes this delivery?

A. Country elevator operators normally receive truck corn, weigh, grade, elevate it into storage bins, after which it is re-elevated to box cars.

Q. How does this compare with the purchase of corn by competing Illinois River elevator operators?

A. The operation is identical. Here, too, corn is received by truck, weighed, graded, and elevated into storage bins, after which it is elevated into barges.

Q. The rail elevator operator transfers the corn from his storage bins into a box car. Is there any trimming involved in this operation?

Mr. Legg: Objection, the witness hasn't been qualified, he has shown no knowledge of country elevator operation.

By Mr. Murphy:

Q. Mr. Graves, how long have you been down at Kankakee with General Foods?

A. Twenty years.

[fol. 372] Q. Do you travel to the country elevator stations?

A. Yes.

Q. Do you know the elevator operators along the New York Central?

A. Yes.

Q. Have you been to the elevators?

A. Yes.

Q. Have you observed their operation?

A. Yes.

Q. Have you ever merchandised corn yourself?

A. Yes.

Mr. Murphy: I submit, Your Honor, with those qualifications the witness is competent to answer that question.

Mr. Legg: Go ahead and ask it.

Mr. Murphy: I have asked it.

Exam. Dahan: Will you answer the question.

By Mr. Murphy:

Q. I asked you about the trimming operation on rail loads at country elevator station.

A. Yes, it is performed at the country elevator station.

Q. By whom?

A. By a man in the employ of the country elevator or the operator.

Q. What kind of an operation is it?

A. It is merely a leveling off of the corn in the car.

Q. Is there a trim operation when corn is transferred [fol. 373] from a river elevator into barges?

A. Yes. There is a similar trim operation performed. In both cases the cost is assumed by the elevator and is, of course, included in his selling price.

Q. When you said in both cases you meant both by river elevator operator and rail elevator operator?

A. Yes, that's right.

Mr. Hayes: I don't think the witness is qualified to answer that question and I ask that the answer be stricken.

Exam. Dahan: I will permit it to stand. If the answer is not correct, you can so show.

Mr. Murphy: Do you take the position that there is no trimming on barge movements?

Mr. Hayes: I take the position that the witness is not qualified to answer the question and that the answer he has made is incorrect. I do not take the position that there is no trimming on barge movements.

Mr. Murphy: I don't see how the answer is incorrect.

By Mr. Murphy:

Q. What is the difference between rail elevator operation and river elevator operation?

A. There is no physical difference between rail and river elevator operations. The only difference, then, lies in elevator ownership. Rail elevators on the New York Central line west of Kankakee are owned by individuals living in [fol. 374] each city. River elevators are operated and controlled by large Chicago grain merchants who also have elevator facilities in Chicago where they receive these barge shipments.

Q. Would corn after elevation into barges at the river be comparable in market value with corn in rail cars at the country stations?

A. Yes, assuming that the barge rates and the rail rates were the same.

Q. Did the effectiveness of the five and a half cent rail rate cause you to make any shift in your source of corn?

A. Yes, as I have already indicated, for the first time in a good many years, we were able to buy corn in the area west of Kankakee. We were able to buy an increased portion of our corn requirements in the country markets. Prior to December 15, 1956 the Illinois River elevators controlled the market along the Illinois River and Kankakee Belt.

Q. How did this affect the competitive situation in this country market?

A. Before December 15, 1956 the river elevators had no competition, but since that date the farmer has had a healthier situation in that he has had two markets for his corn; barge and rail. With the five and a half cent rate, competition between the rail and barge buyers was established. In my opinion this resulted in higher bids from barge buyers and rail buyers than would have been made if only barge buyers had been in the market.

Q. Have you prepared an exhibit that shows the purchase price of corn on the Illinois Proportional rate and the bids that can be made by barge bidders and rail bidders?

A. Yes.

Mr. Murphy: Your Honor, may we have this next exhibit which is a statement showing purchase basis of corn marked for identification?

Exam. Dahan: It may be marked for identification Exhibit No. 25.

(Applicant's Exhibit No. 25, Witness Graves, was marked for identification.)

By Mr. Murphy:

Q. Will you please explain your exhibit No. 25?

A. The Chicago price less transportation cost to Chicago set the bids to the country for corn. The normal transporta-

tion cost used for rail bids is the Illinois Proportional. My exhibit, based on a \$1.15 Chicago price, shows that the rail bid on the Illinois Proportional basis would reflect a price of 100.68 cents per bushel to the farmer.

Q. Right there, Mr. Graves, where is the \$100.68 per bushel shown on your Exhibit 25?

A. Well, let's see, that would be the end of the third [fol. 376] paragraph under examples.

Q. All right, will you proceed please.

A. Prior to the establishment of the five and a half cent proportional rate the river buyers controlled the country market as they could bid whatever was necessary over rail bids and obtain the corn for delivery by barge to Chicago. The establishment of the five and a half cent proportional rate now permits one to bid in competition with the river buyers although there is still a difference in their favor.

Q. Do you show on that exhibit the amount the river elevator operators could bid?

A. Yes, I do.

Q. What was that amount?

A. A dollar nine and ninety-six-hundreds cents per bushel.

Q. Where is that?

A. That's well, I'd call it the end of the fifth paragraph.

Q. And do you show what the difference in favor of the barge bidders was under that basis?

A. That's right, nine and twenty-eight hundreds cents per bushel.

Q. And where do you show what the rail bidders can offer now?

A. Based on the five and a half-cent rate you just follow right on down and about the end of the eighth paragraph [fol. 377] a dollar nine and thirty-three hundreds cents per bushel.

Q. In your opinion, Mr. Graves, would a rate higher than the five and a half cent rate which was published by the New York Central during the eight month period after December 15, 1956 be competitive with the barge rate on shipments destined to Official Territory?

A. No, for if the rail rate were higher than five and a half cents the barge buyers would have a competitive purchase advantage and would control the market. That would force the grain to the river elevators. As shown in my ex-

hibits, the barge buyers now have a purchase advantage, and any increase in that advantage would be sufficient to eliminate the competition of rail buyers. It is important to realize that grain is traded on a very narrow margin.

Mr. Murphy: Thank you, Mr. Graves; the witness is available for cross examination.

Cross examination.

By Mr. Bradford:

Q. Mr. Graves, this difference of point 63 cents per bushel represents five eighths of a cent a bushel?

A. That's approximate.

Q. So the barge line still has that advantage?

A. They still have that advantage, that's right.

Mr. Bradford: Thank you.

By Mr. Hayes:

Q. Your Exhibit No. 25, Mr. Graves, referring to the [fol. 378] fourth paragraph under examples shows a price to farmer at river elevators a hundred nine, ninety-six hundreds cents per bushel. Do you see that figure?

A. I do.

Q. I want to talk about that in a few moments. Then coming down four paragraphs under that you have an item price to farmer at country elevator a hundred nine, thirty-three hundreds cents per bushel. Do you see that figure?

A. Yes, sir.

Q. And then the difference between those two is sixty-three one hundreds of a cent. Is that what you have there?

A. Yes, sir.

Q. Is it the intention of that exhibit to show that there would be sixty-three one hundreds of a cent difference in favor of the river bid to the farmer under the present rate adjustment?

A. That shows that the price to the farmer made through the channels made by river elevators could exceed the best price made by rail elevators through channels to the farmers by that amount.

Q. I am not sure that I got your answer to my question. Perhaps you didn't understand it.

A. I think I understood it.

Q. Then I don't understand your answer. I asked if the purpose of that comparison was to show that under the [fol. 379] present rate adjustment there would be a sixty-three hundreds of a cent higher price to the farmer for his grain if he sold it at the river.

A. No, it doesn't show that; the advantage is there.

Q. That's the intention to show that it could be like that?

A. That's right, based on the factors shown here.

Q. Is it like that?

A. Well, these factors are correct so why isn't it like that?

Q. That isn't what I asked you. I asked you if it is like what your exhibit purports to show?

A. Yes, the river has that much edge over the rail buyer.

Q. Well, on the bids for grain between the river and the rail, is that what you mean to say?

A. On corn they have that edge in buying, yes.

Q. Well, that difference that you observed between the river bid and the rail bid.

A. I don't quite understand your question. Are you asking me to tell you what the river bid is?

Q. I am asking you if this is representative, this difference here, of the difference between the river bid and the rail bid as you have observed it?

A. That's asking me to testify what the river bid is and I frankly don't know what the river bid is today.

Q. Well, you may not know what it is today, but as a grain buyer certainly you have some familiarity with it.

[fol. 380] A. Yes, I do, but as of this morning I don't know what the river bid is, but the advantage is there based on these factors.

Q. That's not what I'm asking you this morning. I am asking if this difference in figures that you have figured out here is representative of what actually occurred as you have observed it while this present rate adjustment has been in effect?

A. Again I tell you you are asking me to testify what the river bid is, otherwise I can't answer your question.

Q. Have you as grain buyer kept track of what the river bid is?

A. Definitely.

Q. While this present rate adjustment was in effect?

A. Yes, sir.

Q. And the rail rate?

A. Yes, sir.

Q. Now, since you have kept track of it and have that knowledge of it, I am asking you, if you are willing to do so, tell me whether this result that you have figured out of sixty-three cents per bushel is representative of what actually occurred as to that difference under the present rate adjustment as you observed it?

A. The advantage is there and can be used at any time they see fit to use it.

[fol. 381] Q. I understand that is your opinion, sir. I haven't asked you that. I asked you a different question. Will you please answer?

A. If you want my opinion I would say yes.

Q. I didn't ask for your opinion, I asked for your observation.

A. Yes, I will say yes, it is used.

Q. Oh, it is used. I ask you again to tell me if that difference of sixty-three cents is fairly representative of the differential between the rail and river bid as you have observed it under this present rate adjustment? Is it or isn't it?

A. I can't answer your question worded in that way.

Q. Well, then perhaps we'll have to supply witnesses who can answer it, but I am going to ask you one more question along that line, sir. You know very well, don't you, on the basis of your experience that that sixty-three hundreds of a cent is not representative of the actual differential between the rail and river bid under this existing rate adjustment?

A. No, I don't know that.

Q. I think you said that grain in barge—strike that. I think you said that grain, corn after elevation into barges at the river was comparable in market value with corn in rail cars at the country stations. As a buyer of corn, [fol. 382] would it be necessary to fix a price for mixed barge grain that reflected the cost of elevation at Chicago?

A. You didn't quote me completely in your opening statement that I said that one was—

Q. On page four of your testimony, it is a question and you may read it or I'll read it. Would corn after elevation into barges at the river be comparable in market value with corn in rail cars at the country stations, and your answer was yes.

A. That's what I wanted to bring in, the fact that the rates have to be equal.

Q. Now, I asked you this question, I'd like to have an answer to this if I can get an answer to this one. I have not—

A. You can try.

Q. I haven't had much luck, have I. The question is would a buyer of X barge corn have to pay a price that reflected the cost of the elevation of that corn, its transfer into rail cars at Chicago?

A. Well, that is a controlled movement. Now if—well, leave the if's out. I don't know if it is offered at that level.

Q. Could it be so far as your knowledge?

A. I am speaking of the level after it is loaded into the [fol. 383] barges. I don't know of any reason why it couldn't be offered at that level.

Q. What level are you speaking of now?

A. After being loaded into barges, same as being loaded into boxcars.

Q. Did you ever hear of it being offered at that level?

A. Yes, I have.

Q. Where, when and by whom?

A. I can't name names right now, but I have heard of cases where different elevators bought grain from other barge operated elevators for movement into Chicago.

Q. Would those be Chicago marketing elevators?

A. Yes.

Q. Now, if a consumer of grain is going to buy X barge grain or if a Chicago marketing elevator is going to buy X barge grain, he has got to consider determining what he can sell it for, the cost of elevating that grain at Chicago, hasn't he?

A. I don't know who you mean by consumer.

Q. Well, let's put it this way, grain that moves by barge has to pay in the end, stand in the way of transportation cost. I am referring now to corn, the cost of an elevation in country as you put it here first, is that right?

A. (Nodded) Finish your question.

Q. That's the first part.

[fol. 384] A. Will you repeat it so I can get the first part? It was quite long and involved.

(Question read.)

A. That question is confusing to me. Will you please see if you can clarify it? You confused country and barge there. To me country is one thing and barge is another thing.

Q. We can agree on that, Mr. Witness, but this grain is going to go to Chicago by barge plus wanting to get there, right?

A. Yes.

Q. The first element of expense is the elevation in the country before you get to the river, right?

A. No.

Mr. Murphy: On barge corn?

Mr. Hayes: You have an item here of the country elevator mark up. It has an expense for country elevator mark up, doesn't it?

Mr. Murphy: I am asking you, are you referring to elevation of barge corn, Mr. Hayes? I'd like to have the question clarified because I think it is contrary to what's in the record.

Mr. Hayes: Mr. Examiner, I have made it so plain that here was corn going to go to Chicago by barge. I think the witness understands me and I think Mr. Murphy under-
[fol. 385] stands me and I wish they'd answer the questions I ask.

The Witness: I'm sorry, the witness does not understand the question.

By Mr. Hayes:

Q. You understand the corn is going to go to Chicago by barge has to pay transportation cost to get there. The first element of that transportation cost shown here on your exhibit is the cost of country elevator mark up, right?

A. No, that's not transportation cost.

Q. But it is an element of expense, isn't it?

A. It's an element of expense in this sense, that it is what the country elevator man takes as his commission.

Q. Well, I don't think the Supreme Court agrees with you that elevation is not a part of transportation cost, but—

A. Wait a minute, I didn't say it was elevation.

Q. But the corn is going to go to Chicago by barge. That's true, isn't it?

A. I didn't hear that. You'll have to repeat it.

Q. It is true, is it not, that the country elevator cost is an expense, a charge is an item of the expense of getting corn from the country in this area to Chicago?

Mr. Murphy: I object to that question, because there's nothing in the record that shows the corn is elevated at a country elevator before it moves to the barge.

Mr. Hayes: I have asked the witness a question.

[fol. 386] Mr. Murphy: I object because it is contrary to the facts.

Mr. Hayes: Counsel's statement of what the record has been is irrelevant. What the record will be depends on the witness' answer to this question.

Mr. Murphy: May I make my objection without interruption?

Mr. Hayes: Yes, which is more than— Go on.

Mr. Murphy: Are you through, sir? I object to it on the ground that the questions assume a fact contrary to that shown by the record. There is nothing in the record that shows that the corn is elevated through a country elevator prior to the time it goes to the river. The record shows the contrary to be true.

Exam. Dahan: If you intend to develop that, do it through your own witnesses by direct testimony. Or do you intend to do so?

Mr. Hayes: I certainly intend to do so, sir. If his witness would answer the simple questions asked, I could prove it by him, but if he isn't going to answer the questions I can't do it.

Exam. Dahan: I'll sustain the objection. You can put it in through your direct evidence and if applicant doesn't like it he can rebut it.

Mr. Hayes: I think I am going to have to follow that method, Mr. Examiner, simply because this witness won't [fol. 387] answer plain questions. I'll ask no further questions of him for that reason.

By Mr. Legg:

Q. Mr. Graves, who instructed you to re-enter the corn market in the Kankakee belt area in November 1947?

A. Me.

Q. Only you?

A. Yes.

Q. Did you do that on advice of counsel?

A. Counsel?

Q. There was an injunction in effect there, you seemed to be confident that it would be lifted.

A. There's no law that stops me from buying corn if I want to.

Q. Were your bids made on the basis of the five and a half cent rate or on the basis of some other rate?

A. No, they were made on the basis of the five and a half cent rate.

Q. And you regarded that as a prudent business risk?

A. I called it a calculated risk.

Q. You had no other advice than your own information?

A. No, I had other advice.

Q. Was it advice of counsel?

A. No.

Q. From whom did you get the advice?

[fol. 388] Exam. Dahan: Mr. Legg, I am just wondering how pertinent all this examination is going to be.

Mr. Legg: I don't know, Mr. Examiner. It's very interesting. Whether it is pertinent or not, I don't know. I'll forego any further questions along that line.

By Mr. Legg:

Q. Does your statement on page four to which Mr. Hayes previously referred assume that the destination of the corn on the barge and corn on the rail is the same ultimately?

A. What question of Mr. Hayes are you referring to?

Q. It is the third question and answer on page four.

A. There is no statement there as to ultimate destination at all, that is merely the statement of the value at that point.

Q. I know. Do you assume that the value is estimated on the basis that the destination for each or for the corn on the barge and the corn on the rail will be the same?

A. No, I can't make that assumption. I merely stated that at that point their value was equal. I don't know what the ultimate destination would be.

Q. If the barge part was destined to Chicago and the rail part also was destined to Chicago ultimately, would the rate be the same on the barge and on the rail?

A. I think that would still be true if the rates were the same.

[fol. 389] Exam. Dahan: What you are trying to say is that if the rail rate and barge rate were the same, the market value of the corn at Chicago would be the same?

The Witness: That's right.

By Mr. Legg:

Q. The market value at Chicago would be the same but if they were going to different markets then the prices might not necessarily be the same, would they?

A. We were talking about values, not necessarily prices.

Q. Doesn't value depend on the demand for the product, and doesn't the demand depend on the place where you are going to take it ultimately?

A. Will you restate his question there?

(Question read.)

A. I think that there needs to be more in that question, because you are assuming demand is what controls the value.

Q. I'll ask you that, does demand control the value?

A. Not entirely.

Q. Assuming supply is the same as you have here, does it not?

A. If your supply is equal you mean?

Q. Yes, sir, as you have assumed here, then does not demand determine the value of the products?

A. It seems to me it would be the same.

Q. That's not what I asked you, Mr. Graves. I asked you would not demand determine the value of the product?

[fol. 390] A. Okay, yes. I'll say yes, it would. I am not at all sure but just for your sake I'll say yes.

Q. Would not the demand for the product depend on the destination to which the product was to be taken? Would there not be a greater demand in one place for corn than there would be in another?

A. There could be, yes.

Mr. Legg: All right, I have no further questions of the witness.

By Mr. Freeman:

Q. For the purpose of clarification, Mr. Graves, the price you show in Exhibit 25, Chicago market, are you talking about spot price?

A. No.

Q. What price are you talking about?

A. That is based on the fact that rail corn with billing, barge corn with billing of the same deliverable value on futures contract or on contract at Chicago, graded corn that is.

Q. Do you buy, pay the same price for X barge as you pay for X rail corn in Chicago?

A. I have.

Q. Do you prefer one over the other?

A. Some rail billing if it is available will give you more flexibility on an outbound movement.

Q. Do you prefer X rail billing then?

[fol. 391] A. I said some X rail billing.

Q. I asked you if you prefer X rail billing.

A. You are limiting me; to some destinations it makes no difference.

Q. How would your 1956 X rail versus X barge shipments out of Chicago compare?

A. I can't tell you.

Q. You don't know?

A. I don't know sitting here. I could tell you from the records at the office.

Q. Will your next witness have this information?

Mr. Murphy: I don't think he has it.

By Mr. Freeman:

Q. Going down to your last set of assumptions on Exhibit 25—

Mr. Leiper: I think that remark should be stricken.

Exam. Dahan: You said assumptions. Proceed.

Mr. Murphy: What was the question?

Mr. Freeman: I haven't asked it yet. Well, you threw me off base if nothing else.

By Mr. Freeman:

Q. You show a rail rate there of three seventeen a bushel.

A. Yes.

Q. That's your rail rate to Kankakee?

A. Right. No, that's the proportional.

Q. The rate to Kankakee for reshipment beyond?
[fol. 392] A. Yes.

Q. That rate will get grain into the General Foods facility at Kankakee?

A. That is not the inbound rate to Kankakee if you are talking about the rail operation.

Q. When you use that, the billing from the Kankakee belt going east, and when you process that grain as I take it you do in your Kankakee plant, it is three point seventeen cents that gets the grain in your facility at Kankakee, is it not?

A. On the through movement, yes. Qualification there, you said gets it into our facility. It doesn't get it into our facility it gets it to our facility.

Q. In Kankakee?

A. Yes.

Q. You have unloading facilities at Kankakee?

A. Yes.

Q. You unload into an elevator?

A. Yes.

Q. Which is part of your processing plant?

A. Adjoining the processing plant.

Q. Adjoined to?

A. Adjoining to.

Q. You load out at that same plant?

A. Now are you talking about the elevator facility or the [fol. 393] plant?

Q. I am talking about the plant. Do you load out at the same plant physically located in the same place as the elevator and the processing plant?

A. Yes, we load cars at the plant.

Q. You unload cars from one side of your plant and load them from the other side?

A. No, the cars are unloaded into an elevator.

Q. And where are they loaded?

A. The products?

Q. Yes.

A. They are loaded from the plant not from the elevator.

Q. Well, will you describe these facilities to us, your elevator and processing plant? Are they physically connected?

A. As I said they are adjoining, one is alongside the other.

Q. Do you have to use a rail car to get from your elevator to your processing plant?

A. No.

Q. Do you have some sort of a conveyor method to get from one to the other?

A. That's right.

Q. And they are physically connected in that sense?

A. That's right.

[fol. 394] Q. Do you know who the river bids are made to? Are they made to the farmer or are they made to a country elevator?

A. Well, now that is from my observation and what is reported to me.

Q. I want to know one, first I want to know what the basis of your knowledge is generally, and when you have actual knowledge then you tell me on the basis of your knowledge. If you don't know the answer to any one of these questions I want you to say so.

A. If you want to know who the river elevator operators put the bids out to, yes, I do know they put them out to country elevators. When you say to my knowledge, are you asking—

Q. It is the country elevator operator who in turn makes the bid to the farmer?

A. Yes, sir.

Q. The country elevator is buying the grain, is it not?

A. Yes, sir.

Q. And the country elevator is selling the grain to some one located on the river?

A. You keep saying grain, do you want to say grain, or do you want to say corn?

Q. Corn, we are talking about corn. When you get to the river, you say in that connection all of the houses along the river have elevator facilities in Chicago. Is that your [fol. 395] understanding?

A. I don't know of any exceptions to that. Wait a minute. there is one further down on the river, yes, that's true.

Q. So you'd have to modify your statement you made in your testimony that you know of none who do not?

A. I do not know of Dewey having a house at Chicago, no, that's correct.

Q. And you wish to so modify your testimony to that extent?

A. Yes, I'll modify to that extent, that's right.

Q. Have you ever owned or operated a facility on a river, any river?

A. No.

Q. What do you know about the operation of getting corn from a truck to a barge via elevator on the river?

A. Just from standing there watching it being done.

Q. You observed it from the outside?

A. Well, in company with the manager; if that's outside, all right.

Q. And in so observing it you have seen barges trimmed at let's say LaSalle? Where have you observed this?

A. It was at Morris.

Q. You have seen barges trimmed. What did it consist of?

A. Well, it comes down the spout and they could load in different places to keep the load level.

Q. You know how corn is handled in Chicago from barge [fol. 396] to a house?

A. No, I have never observed that.

Q. You just don't know anything about that?

A. Not from observation, no, sir.

Q. Now, if there is a five eighths cent bushel advantage at the river, why is it that contrary to the testimony that we both heard yesterday farmers aren't seeking out the river barge rather than going to the New York Central elevators?

A. Do you want me to give the farmers' thinking on that?

Q. I am asking you what the reason is. You say there's a five eighths cent advantage here. We both heard the same testimony yesterday.

A. I know, sure. I know I bought corn. My assumption would be that the country elevator man prefers to ship his corn by rail and that's the reason it has gone rail.

Q. This five eighths cent advantage at the country elevator, you are not talking about the farmer then.

Mr. Murphy: Are you talking about all farmers regardless of their location?

Mr. Freeman: I am talking about the five eighths advantage.

The Witness: This shows the five eighths advantage the river has.

By Mr. Freeman:

Q. Yes, that's what you purport to show, that's what I'm asking you, why in view of this are they not seeking out [fol. 397] the river rather than going to New York Central? We heard yesterday that they are going to New York Central.

A. Yes.

Q. And your answer is that they prefer to ship by rail?

A. That would be my assumption if the prices were equal.

Q. But the prices aren't equal on the basis of your assumption.

A. If the prices were equal at the level involved. If you are talking about, the bid to the country elevator is loaded in a box car. The bid to the country elevator by the river is in truck at the river, it is not in a barge.

Q. Your five eighths advantage that you are talking about here hasn't gotten it into the barge?

A. It is not my advantage, it is the river's advantage.

Q. Your assumption, that hasn't got it into the barge yet, it is in a truck as I understand you now?

A. Yes.

Q. At the river elevator?

A. Yes.

Q. Okay. Do all of your products go out by rail from your Kankakee house that we are talking about here, made of corn?

A. A very, very high percentage. I couldn't give you the exact figure but to all intents and purposes, yes.

[fol. 398] Q. Your products, and I take it you make both a food grade product and feed grade product?

A. Yes.

Mr. Murphy: I object to the questioning in regard to the products, Your Honor. The witness has testified in regard to the competitive bidding situation in obtaining the corn not in connection with any marketing situation and the sale of products.

Mr. Freeman: That's precisely the problem we have here, Mr. Examiner. This witness is telling half the story. He is telling it up to the point of getting it into a processing plant and that's not the whole story, and I think I should be privileged to develop the whole story.

Mr. Murphy: He has explained the competitive situation he meets in buying corn in the country in competition with people buying corn for movement by barge to Chicago and he feels he has the right to compete for the purchase of that corn and that's the story he told. I don't see how any

testimony about the marketing of his products is material to this issue.

Mr. Chartrand: Oh, I beg your pardon, it is very material to this issue.

Exam. Dahan: Do you have an objection?

Mr. Murphy: Yes, I have.

[fol. 399] Exam. Dahan: I'll overrule the objection.

Mr. Freeman: Will you read the question?

Exam. Dahan: Why don't you put it again.

By Mr. Freeman:

Q. Do your food grade products on this rate, five and a half cent rate, go to ultimate destinations in the east or are they stopped some place for further process? To whom do you sell them, categories of people.

A. I am not in the sales end, I am in purchasing.

Q. You don't know anything about sales?

A. That is correct, I don't know anything about selling the products.

Q. Well, let's look at the purchases. Can you tell me about what your actual purchases are or put it in terms of your annual grind without revealing any particular secrets.

Mr. Murphy: Will a range be sufficient so we don't disclose trade secrets?

Mr. Freeman: Yes.

Mr. Murphy: Just give it in a range.

The Witness: A range of a million or a half million?

Mr. Murphy: Give it sufficiently so you don't disclose the precise information.

The Witness: All right, nine to ten million.

By Mr. Freeman:

Q. A year?

A. Yes.

[fol. 400] Q. Bushels?

A. Bushels of corn.

Q. Can you tell me how much Chicago elevator corn you buy a year?

A. Approximately, I can't tell you to the bushel.

Q. Just approximately.

A. Well over a million bushels.

Q. Of elevator corn at Chicago?

A. From Chicago elevator, Chicago merchant elevators.
If that's what you mean by elevator corn.

Q. Corn that has been in an elevator in Chicago.

A. Right.

Q. How much corn do you buy in Chicago referred to as track corn?

Mr. Murphy: At what point?

Mr. Freeman: Chicago.

The Witness: Track corn at Chicago? Well, I can't think of any specific case where you call it track corn at Chicago. To me it would be spot corn, is that what you have reference to?

By Mr. Freeman:

Q. Either one.

A. I have bought that corn from different Chicago commission people at different times, but what the volume is, I don't know. I have also bought that from country merchandisers but what the volume is I couldn't tell you.

[fol. 401] Q. Well, is all the rest of the corn, talking in terms of nine or ten million bushels, approximately a million bushels of elevator corn in Chicago, is all the rest corn you buy from Commission houses or merchants or wherever it comes from?

A. Will you restate that?

(Question read.)

A. I buy corn at all market levels, whether it is country, whether it is to the farmer, country elevator, country merchant, sub-terminal, terminal.

Q. Do you buy any Indiana corn?

A. Yes.

Q. Corn from southern and central Illinois not otherwise involved in the Kankakee belt route?

A. Say that again.

(Question read.)

A. Yes.

Q. Corn from Iowa?

A. Yes.

Mr. Murphy: Your Honor, I fail to see the pertinency. I object to these questions as being immaterial.

Mr. Freeman: It seems to me it is material where he gets his corn. How important this case is to him in terms of his total purchases. I get cut off trying to take him to destinations. He doesn't know where they go, and now [fol. 402] I am trying to go back to where he gets his corn.

Exam. Dahan: We don't need all these remarks. Let's take a five minute recess.

(Short recess.)

Exam Dahan: Come to order please. You may continue, Mr. Freeman.

By Mr. Freeman:

Q. When you buy corn in the Chicago market, do you know where it came from?

A. Do you mean by that whether it is barge billing back of it or rail billing?

Q. No, what country elevator station the corn will come from?

A. No.

Q. Do you buy corn yourself directly from a country elevator or do you buy exclusively through others?

A. No, we buy some directly from country elevators.

Q. You buy some directly from country elevators, and some through brokers and commissions?

A. Well, country merchandisers.

Q. And what proportion do you buy yourself?

A. We buy it all ourselves, but we buy—

Q. Directly from country elevators?

A. That's right.

Q. What proportion do you buy that way?

A. I couldn't tell you. We don't keep a record of it.
[fol. 403] Q. Is it a large amount or small?

A. No, it's relatively small.

Q. Do you merchandise corn?

A. We haven't in recent years.

Q. You are selling only the product out of Kankakee?

A. Currently.

Q. How currently are you talking about?

A. I don't think I have merchandised any corn in three or four years.

Q. If you see the same buyers making the same bid to a country elevator, does that mean a monopoly condition to you or does that mean competition?

A. Making the same bid to a country elevator, does that mean a monopoly? I don't know what would be back of why they were making the same bid. Maybe they didn't want to bid any higher.

Q. It wouldn't suggest anything to you?

A. Not particularly, in itself.

Mr. Freeman: That's all.

By Mr. Chartrand:

Q. Mr. Graves, you indicated in your statement that corn is in a highly competitive market and therefore fractions of a cent a bushel would turn a sale, would it not?

A. It does.

Q. And likewise if there were two competitors, two coun- [fol. 404] try elevators bidding for corn in the country, they would have to be at a very close or the same competitive level, would they not?

A. Yes.

Q. A man that was a half a cent a bushel out of line would not for all intents and purposes, would not be in the market, would he?

A. He wouldn't buy the corn.

Q. Now, I don't understand that statement of fact how would a five eighths of a cent a bushel advantage to the barge line under your exhibit 25 that the elevators on the New York Central could ever buy this corn.

A. Are you making a statement or are you asking a question of me?

Q. Will you explain to me how an elevator on the New York Central could ever buy corn where the competitive situation was such that there was five eighths of a cent a bushel in favor of the river?

A. That would depend on the nearness to the river, nearness to the country elevator to a certain extent. It also could depend on how much that buyer would have to pocket of that cost.

Q. Well, then your figures as reflected in Exhibit 25 ignores completely the truck transportation, doesn't it?

A. Yes, it does.

[fol. 405] Q. It is not taken into consideration at all?

A. No, it does not take the truck into consideration.

Q. When you speak of grade of corn, do you mean number two yellow corn?

A. Yes, Government stamped No. 2 yellow corn.

Q. And there might be some other factors either premiums or discounts that might have to be taken into consideration apart from No. 2 yellow corn?

A. Yes.

Q. These are number 2 yellow prices?

A. Well, yes, that's right.

Q. Do you buy for your operation at Kankakee, your processing operation, any CCC corn?

A. At times, yes.

Q. You have—have you any information as to what percent would be CCC of your total requirements?

A. I couldn't tell you that.

Q. Would it be small?

A. Compared to the total, yes. It would not be large.

Q. Very small?

A. Well, if we would say around a million bushels would be small. Now I am not going to say it's a million bushels we use because I don't know the exact figure and don't know if that's within three or four hundred thousand of it. If you want to talk in quantity of bushels it's a sizable [fol. 406] amount, but it is not sizable as compared to the total amount.

Q. It is a small percentage?

A. Yes.

Q. What were your corn receipts, and I speak of free corn receipts offered this line in recent years?

A. Prior to December 15, 1956?

Q. Prior to this rate.

A. Well, I did get up a figure in '56 prior, and I think I bought less than a car and a half of corn for that year.

Q. Less than a car and a half of corn?

A. Yes.

Q. What did you buy on this line in 1957?

A. Up to the first eight months eleven hundred one cars, I believe it was.

Q. Eleven hundred and one cars?

A. That's right.

Q. So figuring a car and a half of wheat that would be approximately ninety four cars in 1956 and eleven hundred one cars in the first eight months of 1957?

A. (No response.)

Q. Does General Foods put out price bids to elevators on this line?

A. Direct to an elevator?

Q. Yes.

[fol. 407] A. No.

Q. How do you buy from elevators on this line?

A. I put bids out to country merchandisers, Chicago merchants, Chicago elevator merchants.

Q. Well, let's assume the elevator at Dwight, Illinois, for example, how would your bid come to him?

A. Through a country, well, I don't know whether you'd call him a country merchant or not, what would you call Lowell White?

Q. Is he a broker?

A. No, he takes ownership of it. He operates terminals at Indianapolis and Chicago.

Q. Would Lowell White—

A. I think the bid would get to the elevator at Dwight through Lowell White among others.

Q. Who would some of the others be?

Mr. Murphy: Is it necessary to get the names of the people?

Mr. Chartrand: Yes, this gentleman buys and we're trying to hook that up with the country. He doesn't buy direct. I am trying to find out how the price he is willing to pay gets to the man in the country.

The Witness: We have bought corn off that line from Cargill, Illinois Grain, Lowell White, Dewey; there are probably others, but I can't think of them.

[fol. 408] Q. Do you use Payne Stotler?

A. Oh, yes, pardon me, Payne Stotler.

Q. And these gentlemen, for their services there's a commission that they retain?

A. I can't say that to my knowledge.

Q. Well, they don't communicate these bids for nothing, do they?

A. Ofttimes their bids are higher than mine when they sell the grain to me, so I can't make a statement on that.

Q. Well, then is your buying really then from Payne Stotler as an example?

A. It is.

Q. And not from the country elevator?

A. That is the way I would classify it. I brought out they are principals rather than brokers.

Q. And I only mentioned Payne Stotler as one name.

A. That's right.

Q. We talk about a New York Central price, that would come to the elevator daily through Payne Stotler for example?

A. Or some other person bidding the country, that's right.

Q. And then if you were in the market for grain you would see what Payne Stotler's price was and buy accordingly?

A. No, I wouldn't say that.

Q. What else do you have to look to?

[fol. 409] A. I look at the Chicago spot market, I look at the northern Illinois rail market, I look at what the river market is. You combine them all and then you put a bid out that will try to attract the corn to you.

Q. You put a bid out?

A. That's right.

Q. To Payne Stotler?

A. To the different merchandisers, yes.

Q. That's what you are willing to pay on that day for your requirements after you evaluate it?

A. After you evaluate the whole picture, that's right.

Q. You made reference as part of that evaluation that you considered the river price. Where do you get that information?

A. From mainly the same people I give my bid out to.

Q. They are informed?

A. They are informed, we exchange bids, there's no secret about it.

Q. And from your close contact with the Payne Stotler people and others, was Exhibit 25 prepared, or is this an assumption you, an assumption of a situation you just started with?

A. No, this is just trying to bring out the fact that the river still had an advantage and what the extreme disadvantage was to us when we had to work on the Illinois [fol. 410] proportional rate.

Q. You started out with a common Chicago price?

A. That's right.

Q. And is that the way prices at the river and on the New York Central are made actually?

A. You mean are they made, are they all a common price, is that what your question is?

Q. Does the river price and the New York Central price start with a common Chicago market price actually?

A. Yes, I think it does.

Q. Well, does the eastern demand where I understand the major part of your products go, does the eastern demand or requirements have a bearing upon the country price along the line?

A. The eastern demand for our products?

Q. Eastern demand for corn or products have an important bearing?

A. Well, at times I think in the year it does.

Q. Well, is that infrequent or would you say that's most of the time?

A. I wouldn't want to make a statement as to whether it was most or infrequent or very frequent because I don't

know how often the eastern demand does control the Chicago market.

Q. Well, do you feel more strongly that it is the Chicago [fol. 411] price?

A. The Chicago price here I am using is a basic principle because corn whether it's rail or barge backed with billing is deliverable on the futures contract and after all that is your base that you start from. That's your home port.

Q. It never will get lower than that?

A. That is correct.

Q. But it could get higher?

A. It could get higher.

Q. But you don't know how much of the time it would be higher out of twelve months of the year?

A. Well, the market picture will show you that more than anything else. Usually in the fall we have discounts and then we work up to premiums over your futures in the spring months.

Q. Does General Foods at Kankakee do a corn merchandising business?

A. Not at the present time.

Q. Did they at any time through 1957?

A. No.

Q. Not at all?

A. Not in 1957.

Q. Have they at any time during 1958?

A. No.

Q. I may have overlooked it but did you state what your [fol. 412] requirements of corn at that time at Kankakee was?

A. Yes, I did, I think I said nine to ten million bushels.

Q. What happens when you get to the point that your requirements are met? Do you pull out of the corn market?

A. Yes.

Q. Does the Chicago market ever pull out?

A. There are two ways you can pull out of the market, that is by reducing your bid below what the going market is, or pulling out your bid completely. Only certain times of the year do I pull out completely. Other times I'll pull

my bid down. Again that would be hearsay on my part. I have known Chicago to do the same thing, not pull out completely, there's always somebody there with a bid, but they will lower the bid if the offerings get heavy.

Q. Depending on the competitive situation?

A. That's true.

Q. For what periods do you pull out of the market, and I'll refer to 1957. We won't go beyond that.

A. Well, there are times, you mean pull out completely, not lower my bid?

Q. Pull out completely.

A. That is more apt to happen ahead of the movement of new crop.

Q. For about what period of time?

A. It might be a period of two weeks, three weeks, it [fol. 413] might even be as much as a month.

Q. As much as a month?

A. That's right, depends on how I am covered.

Q. Then considering the periods in which you lower your price because your requirements have largely been met or have been met, is that lowering of price for like periods?

A. No, that would be only of short duration.

Q. Temporary or short duration?

A. Yes.

Q. What commodities are manufactured from the corn you purchase at Kankakee?

A. Well, there's corn grits, corn flour, corn meal.

Q. Just a minute please, and I'd just as soon have about five of the major ones.

A. Corn grits, corn flour, corn meal, corn oil and hominy feed. That will give you five, won't it? If you need another one you can have corn flakes if you want it.

Q. Corn flakes. What are grits worth?

A. I frankly couldn't tell you.

Q. But there are established competitive values of grits and these commodities published, are there not?

Mr. Murphy: I object to this line of questioning, Your Honor. The witness testified about competitive situation in the purchase of grain.

Mr. Chartrand: I'll withdraw the question.

[fol. 414]

By Mr. Chartrand:

Q. What effect did the establishment of the five cent rate have upon the prices you furnished Payne Stotler for example that you were willing to pay after December 15, 1956?

A. What effect?

Q. Did you raise your bid?

A. Yes, if you are talking about at a country station, yes, the bid was several cents higher.

Q. But you make your bid to Payne Stotler. What

A. I raised my bid to Payne Stotler.

A. I raised my bid to Payne Stotler.

Q. The reduction in rate had the effect of raising your bid to Payne Stotler?

A. On the basis of the country station involving the country station, yes.

Q. Then when the five and a half cent rate was enjoined, what happened to your bid immediately to Payne Stotler?

A. There was no bid for that billing at that time. There was the regular northern Illinois bid which went along as it did before.

Q. You were really out of the market then at that time?

A. Yes, until I re-entered.

Q. Then there was a direct relationship between the establishment of the five and a half cent lower rate and the increase in your bid price?

[fol. 415] A. Based on country elevator.

Q. Or to Payne Stotler?

A. Yes.

Q. Do you buy any truck corn?

A. Yes.

Q. Is it a sizable amount?

A. Yes.

Q. Does it come from the territory served by the New York Central along this line?

A. Adjacent to Kankakee, yes.

Q. Adjacent to Kankakee?

A. I mean by that a radius of oh, ten, maybe fifteen miles.

Q. Of Kankakee?

A. Yes.

Q. Does it stretch as far west as Union Hill?

A. At times.

Q. Then you are competitive with the elevator at Union Hill in so far as—

A. No, I don't buy any quantity direct from farmers, my truck bid is to merchandisers, country merchants also. In percentage I said I bought at all market levels, but the percentage direct from farmers is insignificant.

Q. Well, tell me on a single truck load from a nearby point hauled to your elevator at Kankakee, your elevator at Kankakee, who do you pay for that corn?

[fol. 416] Mr. Murphy: Your Honor, the testimony here was to the competition between the barge bids and the rail bids. I don't know whether this is material or pertinent to the direct examination.

Mr. Chartrand: There are other forms of transportation involved besides water here.

Exam. Dahan: Objection overruled.

The Witness: Would you state again what your question was?

By Mr. Chartrand:

Q. Well, on corn trucked to your elevator at Kankakee, who do you pay for that corn?

A. Country merchandisers.

Q. Country merchandisers?

A. Or if, whoever, I mean above the country elevator level whoever we bought the corn from above the country elevator level.

Q. Would it be Payne Stotler?

A. In some cases.

Q. Or possibly an interior country elevator for whose account it was brought to Kankakee?

A. That is right.

Q. Located on a railroad?

A. It could be located on a railroad but within a close-in area to Kankakee.

Q. Do you have a corn dryer at Kankakee?

[fol. 417] A. Yes.

Q. Well, is there in connection with that drying of corn in so far as the price you submit to Payne Stotler, some type of a discount scale, to cover higher moisture corn?

A. Yes.

Q. What is that scale? Is it uniform or does it change from day to day?

A. Well, it hasn't changed since the start, shortly after the start of the new crop movement, my moisture discount has been unchanged.

Q. At what point does your moisture discount scale start?

A. Fifteen point five percent.

Q. Fifteen and a half percent, and what is the progression? At fifteen and a half percent then there is no discount?

A. That is correct, on moisture.

Q. That's correct, moisture, and all other things being equal the basic number two yellow corn would be paid there?

A. That's right.

Q. For moisture content above fifteen and a half percent what is the rate of progression?

A. One cent for each half percent up to twenty-three percent moisture.

Q. Is that a discount scale that is observed by all of the grain buyers in that territory?

A. That is rather a complicated situation, competition [fol. 418] in some areas is on the one cent scale, in other areas it is on a one and a half cent scale. Even the Chicago spot market the prices paid are extremely high over the futures but then they use the one and a half cent scale and it brings it down to where it is comparable to the one cent scale, the difference is in the price that you put a basis two. You can have a high price for basis two, and a one and a half cent scale and when you get down to the actual price of corn they'll just about equal out. They come out recently, I wouldn't say recently, we'll say for a period of time here going back into '57, with three bids for Number 2 corn, one will be, it will carry a one and a half cent scale, it will be a lower bid. Then they'll pay a higher price over nineteen one moisture but it's still basis two, but your dis-

counts start at a higher price. Then there will be another at twenty point one or twenty point six, so it's very hard to evaluate just what the difference in moisture scales would bring out. Actually, this is my opinion, the one and a half cent scale reflects an incorrect value. That is my opinion because at the current price levels of corn it does not require one and a half for each percent to cover cost on shrink and drying. I think one cent on a half percent is a more realistic figure and I would think that would be true until the market moved up to a higher price, but you [fol. 419] have to bear in mind the price for Number two on a one cent scale is lower than the price for two on a one and a half cent scale.

Q. By how much?

A. Well, it runs from three and a half, four, four and a half cents a bushel.

Q. Could I conclude then somewhere between three and four and a half cents?

A. That's right. It's in a range, that's all.

Q. Three or four cents lower price basically—

A. For two based on the one cent scale against two based on the one and a half scale.

Q. All right. Then let me see if I understand that correctly. Would it be a fair statement for me to say that the one and a half cent discount for every half percent moisture over and above fifteen and a half is by and large, over the years has been a standard discount?

A. No, I don't know that it has. It has for the last couple years depending on the price level of corn, but nobody in the market is going to stay at one and a half if we have two dollar corn, I'm telling you right now.

Q. But in so far as discount scales are concerned, is the one cent really an exception to the one and a half or is the one and a half an exception to one cent, if it could be stated that way?

[fol. 420] A. I have considerable amount of competition on the one cent scale, so I would say the Chicago market is on the one and a half, the Iowa market is on the one.

Q. What would Indianapolis be on?

A. Frankly I couldn't tell you right now, because I do not buy corn from Indianapolis.

Q. What would Decatur be on?

A. One and a half.

Q. Paris, Illinois?

A. I don't know what their bid is, and as far as Decatur, the only reason I know that is from what somebody told me.

Q. Fine, I think that's enough on this moisture discount scale, except I'd like to refer back to your Exhibit 25 where you show let's say a very close pricing picture between the river price and the New York Central price on basic corn.

A. Basic Number 2 Corn?

Q. Basic Number 2 corn, but if the river was on a one and half cent scale and you were on a one cent discount scale, then that would change the five eighths of a cent advantage to the river, wouldn't it?

A. No.

Q. Under the dollar nine cents?

A. No, it would depend on what the bids were.

Q. You have bids here at both the elevators?

[fol. 421] A. It would depend on what the level of the bids was.

Q. You have approximately the same level?

A. That is correct there because we are talking about No. 2 corn.

Q. I am going on the assumption for the foundation for the two scales it will be these prices, but you say that in fact that would not be so because of the one price for the cent and a half discount scale and another separate price for the one cent discount.

A. Yes, the basis two would be on different levels because of the difference in moisture scales.

Q. Is there anyone else in Kankakee, an industry that is a receiver of corn?

A. There's a little feed mill, A. L. Book, he's a member of the Board of Trade.

Mr. Chartrand: I believe that's all. Thank you.

Mr. Murphy: No questions on redirect.

OFFER IN EVIDENCE

Exam. Dahan: The witness is excused. Is there any objection to Exhibit 25? If not, Exhibit 25 will be received in evidence.

(Applicant's Exhibit No. 25, Witness Graves, was received in evidence.)

Mr. Bradford: We are going to put Mr. Schaller on next because it is necessary for him to leave town.

[fol. 422] L. W. SCHALLER was sworn and testified as follows:

Direct examination.

By Mr. Bradford:

Q. What is your name?

A. My name is L. W. Schaller.

Q. Where do you reside, Mr. Schaller?

A. Indianapolis, Indiana.

Q. What is your occupation?

A. Traffic manager for Evans Milling Company.

Q. And how long have you been so employed?

A. Sixteen years.

Q. And what business is the Evans Milling Company engaged in?

A. We operate a dry corn mill.

Q. And what is a dry corn mill?

A. A corn mill who processes corn by the dry process.

Q. Have you had any previous transportation experience before being connected with Evans Milling?

A. Twenty-six years in rail transportation.

Q. What railroads were they?

A. Nickel Plate, Monon, and Chicago Atkinson and Southern.

Q. Have you any official position with the Indianapolis Board of Trade?

A. I am vice president of transportation committee.

Q. And Evans Milling are members of the Board of Trade?

A. That's right.

[fol. 423] Q. What products does the Evans Milling Company produce?

A. Corn grits, corn meal, corn flour, brewers flakes and hominy feed.

Q. Are all these products manufactured from corn?

A. They are.

Q. What is the source of your supply of corn?

A. We receive corn from Indiana, Illinois, trans-Mississippi territory, sometimes from the northwest territory.

Q. Do you at times buy corn originating at the west end of Kankakee belt on the railroad of the New York Central?

A. We have.

Q. How long have you made such purchases?

A. We purchased corn for eight months in 1957 and we have also purchased corn since the temporary injunction was lifted in 1957 and '58.

Q. What was the effect of the five and a half cent rate here under consideration? What was the effective date?

A. December 15, 1957.

Q. Do you consider that rate to Kankakee as a rate standing by itself?

A. It is not.

Q. What is the purpose of it?

A. It is a proportional rate which can only be applied when the traffic moving under it has been milled in transit.

Q. Now prior to December 15, 1956, did you make any [fol. 424] purchases of rail corn from the west end of the Kankakee Belt?

A. Evans Milling Company received no corn for the fifteen years prior to that time from any of those states.

Q. That is rail origin corn?

A. Rail origin corn.

Q. And why did you not make purchases at that time?

A. It was not offered to us.

Q. Do you know of any movement at this time of corn to any other industry or merchant in Indianapolis from the Kankakee Belt?

A. There is a small movement last year which went to other processors at Indianapolis.

Q. Have you made an investigation of the records of the Indianapolis Board of Trade to determine the total amount of corn moving from the Kankakee Belt to Indianapolis while this five and a half cent rate was in effect?

A. There was in the neighborhood of two hundred sixty cars moved to Indianapolis.

Q. Did your investigation develop any movement prior to the institution of the five and a half cent rate?

A. No.

Q. And how many cars did the Evans Milling Company receive on the five and a half cent rate?

A. We received two hundred nineteen cars.

Q. Of the two hundred nineteen cars received by you [fol. 425] where were they purchased?

A. We purchased them through various grain merchandisers at Indianapolis and on the floor of the Indianapolis Board of Trade.

Q. In fact the entire amount received by you was purchased on the floor of the Indianapolis Board of Trade?

A. Either on the floor or through merchandisers who operated on the floor.

Q. Did you purchase any of this corn from any of the protestants involved in this proceeding?

A. The two hundred nineteen cars we purchased eighty-three from the Cargill Grain Company who are protestants in this proceeding.

Q. And the eighty-three cars were rail movement?

A. That's right.

Q. Now on what basis were they purchased?

A. They were purchased on the basis of the five and a half cents rate to Kankakee plus a proportional east.

Q. In your duties as traffic manager are you consulted by the purchasing department of your mill?

A. I am.

Q. And assuming that an amount of corn is offered to your purchasing department, are you consulted before they purchase it?

A. Yes, they inquire as to the application of the transit [fol. 426] and rates from the origin of the country elevator

to shipping point, whether or not we can use it and on what basis it can be used, and whether or not it has any advantage or disadvantage to us.

Q. To that extent you are familiar with the purchase of corn at your plant?

A. I am.

Q. Now, is there anything special about the billing received by you for your contract purchase in connection with this corn originating on New York Central Kankakee Belt?

A. We bought it and our contract specified, as I recall it they had to put it so it could be used on this basis.

Q. How do you mean on this basis?

A. On the basis of the five and a half cent rate to Kankakee.

Q. What was the qualification to become necessary to make it five and a half cent rate?

A. You had to have a hundred thousand pound minimum and we would have to mill it in order to use the five and a half cent rate.

Q. In other words you get the whole corn in and then mill it?

A. That's right.

Q. After that the five and a half cent rate will apply. Now in the manufacture of your product do you have a certain [fol. 427] amount of shrink?

A. We have a shrink in the manufacture of our product due to shrink and manufacturing loss.

Q. What does that shrink amount to, do you know?

A. About five percent of the total weight.

Q. On that five percent of total weight, what was the rate that was paid?

A. That was the local rate to Indianapolis.

Q. Did the five and a half cent rate apply on that?

A. That did not apply on the shrinkage.

Q. In connection with the shrinkage, what are the total requirements, yearly requirements for your operation at Indianapolis, your receipts?

A. What was that question?

Q. What is the yearly requirement of corn for your operation?

A. For our mill, we'll process about twenty thousand bushel a day, between three to four million I would say, sometimes it's a little more.

Q. Five percent of that is all originated on the Kankakee line at the full local rate?

Mr. Chartrand: There's nothing in this record that shows it all comes off the New York Central.

Mr. Bradford: I'll withdraw the question.

By Mr. Bradford:

Q. Did you ever buy corn at Indianapolis from any other [fol. 428] firms, Indianapolis firms, this particular corn?

A. We bought some west end corn from Early and Daniel Company, Lowell Hoyt Company and Norris Grain Company.

Q. Norris Grain Company operate a river elevator?

A. They do.

Q. How much corn did you buy from Norris Grain Company?

A. There was only seven cars from them.

Q. Did they have an Indianapolis office?

A. At that time they did.

Q. And you purchased through that office?

A. Yes, sir.

Q. Will you explain just how your transit operations are transacted at Indianapolis?

A. On receipt of the corn it is unloaded, weighed, inspected and after the bills are paid they are registered with the Eastern Weighing and Inspection Bureau. They police the transit and on our outbound shipments your inbound billing is surrendered against the outbound.

Q. Is there a movement of corn from the car into your plant?

A. There is from the inspection yards, inspection tracks of various railroads.

Q. I mean was the car unloaded at your plant?

A. Yes.

[fol. 429] Q. What was done with the corn after it was unloaded? Was it placed in storage?

A. Yes, we have an elevator.

Q. What is the capacity of that elevator?

A. Eight hundred thousand bushel.

Q. Now, I think you said you were a member of the transportation committee of the Indianapolis Board of Trade?

A. I am.

Q. Was this matter ever considered by that committee?

A. It was considered by the committee.

Q. And what was the action of the committee?

A. The transportation committee voted to support the application of the New York Central Railroad in securing Fourth Section Relief with the provision of assurance from the New York Central that after the Fourth Section application was disposed of they would present a proposal to eliminate the milling in transit feature and make the five and a half cent rate, proportion rate applicable on whole corn.

Mr. Chartrand: May I inquire, Mr. Examiner, is he testifying on behalf of the Indianapolis Board of Trade?

Mr. Bradford: Yes, I asked him if he was a member of the Committee.

Mr. Chartrand: That doesn't mean he is testifying on their behalf.

[fol. 430] Mr. Bradford: Well, he is.

By Mr. Bradford:

Q. Was that action of the committee unanimous?

A. It was not.

Q. How many dissenters were there?

A. There was one.

Q. What was the name of that dissenter?

A. Indiana Grain Corporation.

Q. Did the Cargill Company have a member on that committee?

A. I don't recall whether he was there or not.

Q. Mr. Schaller, I believe you have prepared an exhibit, and may we have it identified, Mr. Examiner?

Exam. Dahan: It may be marked as Exhibit No. 26.

(Applicant's Exhibit No. 26, Witness Schaller, was marked for identification.)

By Mr. Bradford:

Q. Mr. Schaller, did you prepare Exhibit 26?

A. It was prepared under my supervision.

Q. Do you know the contents of this exhibit?

A. Yes, sir.

Q. Are the contents true and correct to the best of your knowledge and belief?

A. To the best of my knowledge and belief it is.

Q. Will you proceed to explain the exhibit in your own way?

A. This Exhibit I undertook to show the movement of [fol. 431] corn from the west end New York Central stations to the quantity and origin points, and to the revenue which accrued to the rail carriers in the movement of this traffic. Page three of the exhibit shows the origin stations, and—

Q. Pardon me, these are origin stations on the New York Central Railroad from which you actually received corn?

A. That's right, and the average mileage when we had a weighted average of 24.95 miles, average distance to Kankakee which was used. On page five is the statement showing the average miles to Kankakee and the distance from Kankakee to Indianapolis. On the shrink tonnage the railroads received revenue based on the rate to Indianapolis which was the local rate and in my estimation part of that revenue accrued to the line of the New York Central west of Kankakee and part of that revenue accrued to the New York Central between Kankakee and Indianapolis, and I undertook to prorate in my figures that revenue and on page six it shows the number of cars received from each group together with the gross weight. The net weight for transit, the charges on the transit rate to Kankakee based on the five and a half cent proportional rate, it shows the shrinkage or manufacturing loss on the inbound rate, the charges on the shrink, the shrink allocated west of Indianapolis or west of Kankakee, the total net inbound charges to Kankakee. On a weighted average the New York Central [fol. 432] accrued \$59.42 per car.

Q. To Kankakee?

A. To Kankakee, and \$2.38 was their average per car mile earning to Kankakee. Average inbound weight of this corn was a hundred nine thousand, a hundred thirty-seven pounds.

Q. Before you go further on the inbound movement to Indianapolis, what rate was paid?

A. I believe it was thirty-three cents.

Q. I know, but it was the full local rate?

A. That's right.

Q. And when did you receive the benefit of the five and a half cents?

A. After it was transferred out? On page seven it shows the outbound movement of this corn or traffic on which billing covering this corn was applied. The destinations are separated by states, number of cars, the distance from Kankakee, the explanation of routes or at least route numbers, the total weight in actual pounds, the proportional rate from Kankakee to the ultimate destination, outbound charges on the total weight, the total earnings east of Kankakee, the earnings per car and per car mile, the total revenue west of Kankakee and the earnings through their point of origin to destination, and the total earnings inbound and outbound which shows the average per car [fol. 433] revenue which the rail carriers received on this traffic was \$407.38; and the average per car mile earning of sixty-one and sixty-two hundreds cents.

Page eight and nine is an explanation of the routes used and the tariff authority.

Q. Mr. Schaller, do you know the present rate on corn using this five and a half cent rate plus the reshipping rate from Kankakee to New York?

A. Fifty-four cents.

Q. That's on corn?

A. Fifty-three and a half.

Q. What is it on product?

A. Fifty-four.

Q. And do you have some other charges in Indianapolis when you mill this corn in transit?

A. We have a milling in transit cost of a cent and a quarter per hundred pounds.

Q. Is that transit charged, is that transit charge applied to corn anywhere west of the Illinois State line?

A. Not to my knowledge.

Q. During the years of your experience with the railroad did you have occasion to observe the operation of the country elevators?

A. I observed it there and we also have an elevator at our mill.

[fol. 434] Q. So the operation of a country elevator, can you explain the operation of moving the corn from the farm to the country elevator and reshipping from the country elevator?

A. Well, the corn is brought to the country elevator. There it is weighed, it is tested, it is unloaded, and then it is elevated to the elevator. After that if the elevator sells it, it's re-elevated and loaded into a box car.

Q. Have you ever had occasion to observe the loading of barges on the Illinois River?

A. No.

Q. You don't know anything about that?

A. Nothing from my own knowledge.

Q. Now, prior to the establishment of the five and a half cent proportional rate, did you ever buy any river corn at Chicago?

A. Yes, sir.

Q. On what basis was that purchased?

A. It was purchased on the reshipping rate from Chicago.

Q. Have you bought any river corn since that time?

A. Since what time, since the establishment of the five and a half cent rate?

Q. Yes, sir.

A. Yes, sir.

Q. Why did you buy river corn in preference to rail corn?

A. It wasn't, rail corn apparently wasn't available. It [fol. 435] wasn't offered to us. We didn't buy any corn off the Kankakee Belt during the time when the rate was under temporary restraining order.

Q. But you have since?

A. We have since.

Q. Now, I think you said before the institution of the five and a half cent rate you bought corn in Chicago from the river operators?

A. Yes, we bought a lot of corn in Chicago.

Q. And was that the only market you had for this corn adjacent to the Illinois River?

Mr. Hayes: I didn't hear that question.

By Mr. Bradford:

Q. Was that the only place to purchase you had for this corn adjacent to the Illinois river?

A. That's right.

Q. Did you consider it as a practical grain man and mill operator a desirable situation to be limited to one market for the purchase of your supplies?

A. No, we like to maintain ourselves in a position where we would have competitive bidding on corn and certainly I don't think it would be a very good practice or a healthy situation to be bound to one source of supply.

Q. Even from the same origin territory?

A. That's right.

Q. In other words do you think Chicago has any right to [fol. 436] insist that all the corn in certain territories come to Chicago?

A. Well, I don't think any market has got any God given right—

Mr. Chartrand: I object to the question because it raises an inference that that is the position of the Chicago Board of Trade which is not the fact.

Mr. Bradford: I was just basing it on some questions you asked about Chicago losing business.

Mr. Chartrand: That's one thing, but the position of Chicago was inherent in that.

Mr. Bradford: The position of Chicago wasn't even stated when you entered your appearance because you stated you were in favor of the application and then you turned around and changed your position.

Exam. Dahan: Objection sustained.

By Mr. Bradford:

Q. Now, in the application of the transit tariffs at Indianapolis, is it a practice for the inbound carrier to receive the outbound haul?

A. That is true in every case except the Illinois Central and the Monon, and there's some exceptional arrangements that apply in connection with the Pennsylvania and the B&O where they have some kind of a reciprocal arrangement, whereby traffic off the B&O can move out Pennsylvania and vice versa, otherwise the inbound carrier must receive the outbound movement.

Q. In connection with the rate here under consideration, [fol. 437] the movement by rail to Indianapolis, is the New York Central always assured of an outbound haul?

A. That's right.

Q. Now, in that case the New York Central on movements through Indianapolis are assured of their five and a half cent rate plus the rate beyond Indianapolis to some destinations, is that correct?

A. They are assured of the five and a half cent rate to Kankakee and they are assured of participating in the proportional rate.

Q. And they are assured of a haul out of Indianapolis?

A. That's right.

Mr. Bradford: I believe that's all, Mr. Examiner.

Cross examination.

By Mr. Hayes:

Q: Just one or two questions. Do members of the Indianapolis Board of Trade engage in grain marketing?

A. They are, some of them are.

Q. Would that be true of most of them?

A. Yes.

Q. Are you engaged in grain marketing, your company, the Evans Milling Company?

A. To a very limited extent, once in a while we'll merchandise some corn.

Q. Prior to the institution of this five and a half cent [fol. 438] rate, has your company bought X-rail grain at Chicago?

A. X-rail?

Q. Yes.

A. Yes, sir.

Q. And prior to the institution of that rate has your company bought X rail grain at Chicago when X barge grain was also available there?

A. I can't answer that question. I don't know whether barge grain was available.

Mr. Hayes: All right, that answers it. That's all.

Mr. Legg: I would like very much to recess right now so I can look at this exhibit before I cross examine.

Mr. Bradford: Mr. Legg, I would like to ask your indulgence to this extent. This man has to catch a plane. He has to leave the hotel at three o'clock. I don't know how long you are going to take but if we recess until two o'clock, I'm sure he won't make connections.

Exam. Dahan: We'll dispose of cross examination of this witness before we recess.

Mr. Legg: I'll let Mr. Freeman go first.

By Mr. Freeman:

Q. Are there other transit points that have a transit charge?

A. In what territory are you speaking?

Q. Central territory and the eastern territory.

A. Yes, sir.

[fol. 439] Q. So that your transit charge is not unique?

A. I would say it is very unique in the corn milling industry in so far as the total capacity of the milling is concerned.

Q. What is the unique feature?

A. For the simple reason that the majority of the corn millers in Official Territory do not pay.

Q. I thought you just told me—

A. You asked me if there was a transit charge, if it was unique if there were other millers who had the transit charge and I said yes, there are other millers, but they are in a very small minority.

Q. What mill is located in Buffalo?

A. There is no corn mill in Buffalo that I know of in competition with us.

Q. Are there corn mills in Buffalo?

A. None that I know of.

Q. None in competition or none that you know of?

A. There is no corn mill that I know of in Buffalo.

Q. How long have you had this transit charge for a penny and a half?

A. It's a cent and a quarter. It originally started out as a half cent, as far back as I can remember in Indiana.

Q. Is your elevator at Indianapolis physically connected to your mill?

[fol. 440] A. Not the tanks, the tanks are not themselves.

Q. What is the operation of your mill of getting the corn from the elevator to your mill to process and grind it?

A. A belt.

Q. The corn you buy from Kankakee, did you describe the handling as being from one of the country elevators?

Mr. Bradford: He didn't say he bought any corn from Kankakee.

Mr. Freeman: The Kankakee Belt, have you described that operation as being from the country elevators to your elevator in Indianapolis?

The Witness: Have I described it?

Mr. Freeman: Yes, the operation—

Mr. Bradford: May I interpose this, Mr. Freeman, he testified all the Kankakee corn he bought from brokers or dealers on the floor at Indianapolis.

Mr. Freeman: Yes, and I am asking what the movement was.

The Witness: Are you asking me have I described it?

By Mr. Freeman:

Q. I am asking you if I am correctly interpreting the description I thought you gave.

A. I don't know that I gave one.

Q. What is the nature of the movement from the Kankakee Belt to Indianapolis from a country elevator?

A. From a country elevator?

[fol. 441] Q. Yes.

A. Well, the cars are loaded by the country elevator. Do you want me to start at the beginning?

Q. That's good enough. What happens?

The Witness: I don't understand the question, Mr. Hayes.

A. Cars are moved to Kankakee by New York Central from Kankakee to Indianapolis.

Q. That's all that happens to it?

A. Car is placed on inspection track, it is inspected by the Indianapolis Board of Trade and if it is billed to a concern like Cargill or Early and Daniels, they order the cars to us. If it is billed to them or billed direct to us on an order bill of lading, the cars are immediately moved to our plant where they are inspected.

Q. What are the, what do the miles represent that are shown on your page seven, are those the actual route of movement miles?

A. That's right.

Q. Not the short tariff mile?

A. No, they are the actual movement miles via the route in which the cars travel.

Q. Have you checked your freight bills to determine what the routes were?

A. That's right.

Q. Are you regularly in the Chicago market for corn?

A. What do you mean by regularly, you mean every day?

[fol. 442] Q. You tell me how often you are in the Chicago market.

A. That somewhat depends on the supply of corn which is in Indianapolis.

Q. And you buy in the Chicago market when you can't get country run corn at Indianapolis or can't get corn in Indianapolis?

A. Or maybe if the price was better in Chicago than it would be in Indianapolis. There's various things that go with that.

Q. Does your mill prefer country run corn?

Mr. Bradford: Are you qualified to answer that question?

Mr. Freeman: He has been pretty free today.

The Witness: I would say that we have to have a good grade of corn. We can't use just any kind of corn in the manufacture of our product, and again that would depend on whether or not the corn in the country was better than the corn in the elevator or otherwise.

Mr. Freeman: Can you buy corn in Chicago from several sellers?

Just in what respect

The Witness: I presume we can.

Mr. Freeman: That's all.

By Mr. Chartrand:

Q. May I inquire, Mr. Schaller, the figure you show on page seven, the lower right hand corner, is that the earnings per car mile on these shipments from the origin of the [fol. 443] grain on the Kankakee Belt Line to final destination?

A. That's right, that's what I intended it to be.

Q. Yes, and that would be sixty-one plus cents per car mile?

A. Yes, that's right.

Q. In so far as the outbound shipments are concerned what product of corn could it mostly consist of or do they consist of more than one?

A. I would say that these shipments represent all of the products which I named.

Q. All of the products. I see. In so far as the outlet for your commodities, to what territory do you go?

A. We go to Official Territory and to Southern Territory.

Q. Is it predominantly to the Official or to the Southern?

A. Official Territory.

Q. Well now, as between, within the Official Territory is it predominantly to the trunk line or the CFA?

A. Trunk line.

Q. Do you have a dryer at your plant?

A. Yes, sir.

Q. Under what moisture scale do you operate?

A. The Indianapolis Board of Trade?

Q. You, the Evans Milling Company.

A. You mean discount scale?

[fol. 444] Q. Yes.

A. I am not qualified to say.

Q. You don't have any idea?

A. It's all hearsay.

Q. Do you know what the Indianapolis Board of Trade Standard is for moisture content?

A. I think it is one and a half cents per half a percent moisture.

Q. Are you acquainted or are you familiar with the fact that there is a different buying base on corn whether the one cent discount scale is used or the cent and a half?

A. No, as far as that is concerned, I am not qualified.

Q. When this whole corn moves into Indianapolis is the full rate paid from the origin to you?

A. That's right.

Mr. Bradford: Origin to Indianapolis?

Mr. Chartrand: Yes.

By Mr. Chartrand:

Q. Then when you go to the trunk line territory you get credit for the pay-in?

A. That's right.

Q. From a joint through rate based on the five and a half cent combination over Kankakee.

A. When we transit a shipment out we would construct our rate on the outbound shipment based on five and a half cents to Kankakee plus the reshipping rate on the corn [fol. 445] products from Kankakee to ultimate destination, we would deduct the inbound rate paid to Indianapolis, we would pay the railroad the difference between the through combination rate or the total combination rate less the paid in factor.

Q. Now suppose you were shipping your products out of Indianapolis to Muncie, what would be the rate to Muncie?

Mr. Bradford: He hasn't shown any movement to Indiana on the exhibit.

By Mr. Chartrand:

Q. I am asking if he made a shipment to Muncie what would be the basis of rates on your products to Muncie?

A. That would be the five and a half cent rate to Kankakee and the reshipping rate from Kankakee to Muncie.

Q. Would your paid in rate take in more than that combination?

A. I don't know what the rate to Muncie is from Kankakee.

Q. Well, you know the proportional rate isn't very much higher than it is to Indianapolis.

A. I don't want to venture a guess, because I don't know. I know what the range is approximately.

Q. If the five and a half cent combination to Muncie were lower than the paid in to Indianapolis would you suffer a loss under the three way rule?

A. If I had a three way rule.

[fol. 446] Q. Do you have a waiver of the three way rule?

A. I don't have the three way rule.

Q. You don't have any. Then there's just no three way rule penalty that could arise at Indianapolis?

A. That's right.

Q. This five percent that you speak of, is that canceled off each inbound freight bill?

A. It is.

Q. Actual loss or is it a—

A. It's a five percent loss and at the end of each quarter if the shrinkage is more or less your transit account is adjusted accordingly. We have to make quarterly inventory and every time the railroads change their freight rates we have to make an inventory.

Q. Do you know what grits are worth?

A. I don't have any idea.

Q. I believe you testified that the rate to New York from Kankakee was fifty-three and a half on corn?

A. On corn.

Q. And fifty-four on product?

A. Fifty-four on product.

Q. In other words products of corn are one half a cent higher than the rate on whole corn?

A. That's right.

Q. Is that generally true from let's say all of Indiana [fol. 447] to New York?

A. That's right.

Q. All of Ohio to New York?

A. That's right.

Q. And from Michigan?

A. That's right.

Q. And from Illinois?

A. Yes.

Q. And has that relationship of grain products or products of corn been in existence many years?

A. Yes, to trunk line territory.

Q. Do you receive any of your inbound corn from this line into Indianapolis on the IC?

A. No, sir.

Q. Could it move that way?

A. No, sir.

Q. Does not the proportional rate from Kankakee apply in connection with the IC Indianapolis and connecting lines?

A. I don't recall whether it does or not. We have never moved any that way. We have never received any corn in connection with the IC out of Chicago. I mean IC direct to Indianapolis. I never took the opportunity to check it. I never took the trouble. It never moved that way.

Mr. Chartrand: That's all. Thank you.

Exam. Dahan: Do you have any questions, Mr. Legg?

[fol. 448]

By Mr. Legg:

Q. On page seven of your exhibit, the column headed total earnings east of Kankakee, Illinois, do those include the earnings both of New York Central and all connecting carriers?

A. Yes.

Q. You do not have any idea of what the division between the New York Central and the connecting carriers would be, do you?

A. I certainly do not.

Q. You testified that you had bought river corn or X barge corn at Chicago since the five and a half rate was first promulgated?

A. That's right.

Q. Was that while the five and a half cent rate was then in effect or not?

A. We buy corn in Chicago.

Q. Excuse me, could you give me a yes or no answer to that question?

A. Then repeat your question.

Q. Will the reporter read the question please?

(Question read.)

A. Let me ask you this. Are you talking about the time since the injunction was lifted or during the time of the injunction or prior to that?

Q. I am talking about any time you have made an X [fol. 449] barge purchase in Chicago subsequent to December 15, 1956, at any time was the five and a half cent rate in effect when you made that purchase?

A. Yes.

Q. About when was that made?

A. I can't give you the date.

Q. Beg pardon?

A. I can't give you the date.

Q. Could you give me the month?

A. I think we bought some in December '57.

Q. X barge?

A. Yes.

Q. About how much was that?

A. I don't know. I just saw the freight bills come in and saw that there was X barge billing in back of them.

Q. Do you know about what proportion of X barge corn you have bought since December 15, 1956 and excluding the period that the temporary restraining order was in effect as compared to a like period in previous years?

A. I don't believe I could tell you any relationship one versus the other.

Q. So far as you know the purchase of the X barge billing was an isolated purchase then?

A. No, I wouldn't say that. We bought considerably more grain which was transported by barge to Chicago. I saw we [fol. 450] have bought considerably more grain which was transported by barge to Chicago than we have been able to get off the New York Central.

Q. Since the five and a half cent rate was in effect?

A. At any time, before and after.

Q. Are you talking now about grain or corn specifically?

A. We only deal in corn.

Q. Then you could not say whether your purchases of X barge corn have decreased or increased since the five and a half cent rate went into effect or while it was in effect?

A. I can't say that it has either increased or decreased or whether there has been any change in it. We may have bought just as much.

Q. You do not know?

A. I don't know.

Mr. Legg: I have no further questions.

Exam. Dahan: Do you have any redirect, Mr. Bradford?

Redirect examination.

By Mr. Bradford:

Q. Mr. Schaller, Mr. Chartrand asked you about the kind of corn you used in milling. Now the corn the Kankakee Belt corn you bought in Indianapolis was bought on the floor after inspection. Was there any advantage in that purchase?

A. Well, certainly if you can see the grades and the sample of the corn, why you know what you're getting. If [fol. 451] it isn't good corn we don't have to buy it, and I believe that there has been many times that we have bought corn from Chicago which was bought on the Chicago grades and weights and in that case it is our corn after it is shipped provided that it meets the grades specified in our contract, however I don't think all Number 2 corn is the same, I mean from milling standpoint.

Q. Does the movement of corn in the Kankakee Belt line to Indianapolis move through any terminal market, the rail movement?

A. From the Kankakee Belt Line it comes direct to Indianapolis which is a terminal.

Q. But there is no intermediate terminal market?

A. No.

Q. Now, on Exhibit 26 on page seven, you show the routes?

A. That's right.

Q. You show two cars to Massachusetts, 1298.8 miles, two cars 1312.8 and one car 1296.8. Did those numbers of cars and the mileage represent a given destination?

A. They do.

Q. You took the destination?

A. I took the destination.

Q. So that is the number of cars to that destination?

A. Yes.

Q. But you did not show the destination and did not show [fol. 452] the customer's name?

A. That's right.

Q. And you did that for business secrets?

A. We done it for competitive reasons, that's right.

Mr. Bradford: That's all.

Recross examination.

By Mr. Legg:

Q. I have one further question. Referring to the number of cars to which Mr. Bradford has just directed your attention, is that the actual number of cars that were used to move the processed products from Indianapolis?

A. Talking about those five cars to Massachusetts?

Q. Well, the 282 cars total, yes.

A. That's right.

Q. Is that just a coincidence that that's the same number of cars that you got from the Kankakee Belt?

A. That is not the same number of cars I got from Kankakee Belt. I got 291 in and 282 out.

Mr. Legg: I see. I have no further questions.

OFFER IN EVIDENCE

Mr. Bradford: I offer in evidence Exhibit No. 26.

Exam. Dahan: Exhibit No. 26 will be received in evidence. The witness is excused.

(Applicant's Exhibit No. 26, Witness Schaller, was received in evidence.)

(Witness excused.)

Exam. Dahan: We'll recess until 1:45.

(Whereupon, at 12:30 p.m. the hearing was recessed until 1:45 p.m. of the same day.)

[fol. 453]

AFTERNOON SESSION

Exam. Dahan: Come to order please. Are you ready to proceed, Mr. Murphy?

Mr. Murphy: I'd like to call Mr. Harron.

RAY V. HARRON was sworn and testified as follows:

Direct examination.

Mr. Murphy: Your Honor, before Mr. Harron begins to testify, could we mark the three exhibits for identification?

Exam. Dahan: Very well.

Mr. Murphy: The first one is a ten page exhibit and shows on the title page—

Exam. Dahan: It will be marked for identification as Exhibit 27.

Mr. Murphy: The next is a nine page exhibit.

Exam. Dahan: That will be marked Exhibit 28.

Mr. Murphy: The next is a three page exhibit.

Exam. Dahan: That will be marked as Exhibit 29.

(Applicant's Exhibits Nos. 27, 28 and 29, Witness Harron, were marked for identification.)

By Mr. Murphy:

Q. Will you state your name and give your business connection and describe your position.

A. My name is Ray V. Harron, I am employed by General Foods Corporation, White Plains, New York and have [fol. 454] been employed by them for the past nineteen years in various capacities in the general traffic department. My present position is that of General Traffic Manager.

Q. Mr. Harron, have you prepared a statement for presentation in this proceeding?

A. Yes, sir, I have.

Q. Will you proceed with that statement?

A. Prior to joining General Foods I had experience in the Accounting, Commerce, Operating and Traffic Departments of the Illinois Central and New York Central Railroads. Included in the responsibilities of the Traffic Department is the staff function of cooperating with the Purchasing

Department in assisting them to obtain raw materials on a competitive basis, transportation-wise, as well as with the Sales Department in developing markets for finished products.

It is in the course of this responsibility that we are here supporting the railroads' publication of a five and a half cent proportional rate on Corn from Illinois stations west of Kankakee on the Kankakee Belt Line of the New York Central to Kankakee.

The points which I intend to cover in my testimony are:

1. That during the first eight months of 1957, when the five and a half cent rate was effective, we purchased and had shipped to Kankakee 1,101 cars of corn from these stations. That the average loading was 110,076 pounds; average revenue per car was \$66.07; weighted average haul was 39.21 miles; weighted average car mile earnings was 168.5 cents.

2. That the billing on these inbound cars was applied to shipments of milled corn products to destinations located at Western Termini of Trunk Line or east thereof. That for the period January through August, 1957 we shipped 1,228 cars at proportional rate from Kankakee. That average weight was 81,775 pounds, average revenue per car \$403.44 and average car mile earnings 47.70 cents.

3. That the total revenue per car and car mile earnings for the distances from these origins to final destinations at combination of five and a half cent proportional rate to Kankakee, plus proportional rates beyond were based on average weight, 81,775 pounds; average revenue per car, \$448.42 with average car mile earnings 50.69 cents. My first exhibit, No. 27 for identification, which was prepared under my supervision shows the actual number of cars of corn from these Kankakee Belt stations unloaded by us at Kankakee for the period January through August, 1957.

While the exhibit is self-explanatory, we should like to explain that the origins are grouped according to a common intrastate rate to Kankakee. Now the exhibit is made [fol. 456] out for months and a good way to explain it would be to take page two for example where we show the group

A origins from which the intrastate rate from Kankakee is twenty-two and a half cents a hundredweight and then we just went along and grouped the other points by that common rate from those origins to Kankakee.

Charges on this intrastate rate are collected on the initial movement to Kankakee. The individual distances to Kankakee from each origin within a group were totaled and averaged, and those individual distances by the way are shown on page ten of the exhibit. When the distance is used to determine car mile earnings, we have used a "weighted average" i.e. the actual number of cars from each group was considered in determining an over-all average distance, as explained on Page ten in connection with single asterisk reference.

After milling-in-transit and reshipment of corn products, the inbound charges are readjusted to five and a half cent per hundredweight on the net weight, after deduction of shrinkage or manufacturing loss. As to shrinkage or manufacturing loss, the full local intrastate rate paid initially applies and reflects a slight increase in inbound revenue. This is inherent in a milling operation and is a standard practice throughout the United States.

For example, on page two of the exhibit, from the Group [fol. 457] A origins there was a shrinkage loss of 528,148 pounds on which charges were based at twenty-two and a half cents per hundredweight. The balance of the inbound gross weight or 11,050,772 pounds, is available for transit at the proportional rate of five and a half cents per hundredweight to Kankakee.

Referring again to page two, from Origin Group A the average earnings per car are \$69.20, including the amount applicable to shrink, and this reflects per car mile earnings of a dollar four and a half cents. It also shows that from these Group A origins the average inbound weight per car amounted to 110,275 pounds.

It will then be observed that we have shown the totals which are pertinent to these figures and below that we have shown averages. Those bearing asterisk marks are the weighted averages considering total number of cars from each origin group, which means that the volume of traffic has been considered as between the different origin groups.

For example we have treated the distance of 66.2 miles from origin Group A as related to 105 cars, origin group B is considered in relationship to 21 cars from that group and so forth. In essence page two shows that we unloaded 230 cars in the month of January 1957 which paid the railroads an average earning of \$67.23 per car and car mile earnings of 148.2 cents.

[fol. 458] Q. Mr. Harron, \$67.23, was that per car earnings?

A. No, that's per car revenue and a dollar 482 per car mile earnings. The succeeding pages three through nine shows the same information for the months of February through August 1957.

Page one is a recapitulation for the total eight month period and shows that a total of 1,101 cars moved to Kankakee at a weighted average total of 39.21 miles, that the average weight per inbound car was 110,076 pounds and produced average revenue per car of \$66.07 and weighted average per car mile earnings of 168.5 cents.

My next exhibit shows the actual—there, Mr. Examiner, I had to change a word. Page nine on Exhibit 28, the second line after X, the word distance should read "destination". This exhibit shows the actual outbound shipments of grain products from Kankakee, Illinois to the east on which the inbound rate was reduced to the five and a half cent proportional rate. The rates applied on outbound movements are proportional rates from Kankakee, Illinois to destinations shown, and it will be observed those destinations are shown by states.

As shown on page seven, the total number of cars shipped during the period January through August 1957 is 1,228, and the average weight of such cars has been used to develop revenue per car and per car mile earnings outbound [fol. 459] from Kankakee, reflecting the distances via the principal routes used to these destinations.

Route numbers and tariff authorities for distances appear on page eight.

The outbound revenue is coupled with the inbound revenue on the same weight reshipped from Kankakee to final destination, following milling-in-transit, under provisions of Agent Hinsch's Tariff 413-T, ICC 4652.

Car mile earnings, both out of Kankakee and the combined inbound and outbound revenue are weighted averages, i.e. the number of cars to each destination was multiplied by the distances applicable to such destinations and such total distance was divided by total number of cars. Such weighted average distance was then used to determine the car mile earnings. Thus the exhibit shows, page seven, that 1,228 cars were shipped at an average weight of 81,775 pounds; that the average per car outbound revenue from Kankakee was \$403.44 and the average per car mile earnings was 47.70¢.

Further that when coupled up with the inbound revenue, the total revenue per car and car mile earnings for the through distances from these Kankakee Belt origins to final destination, at combination of the five and a half cent proportional rate to Kankakee, plus proportional rates beyond, were \$448.42 average revenue per car and the average per car mile earnings were 50.69¢.

[fol: 460] All rates include X-206 increase which became effective December 28, 1956. Under present day rates which include the X-206A increase of nine percent effective August 26, 1957; to Trunk Line and New England destinations shown here the rates would be two cents per hundredweight higher than the rates shown in our exhibit. Considering this two cents per hundredweight increase now in effect, outbound earnings per car on the same tonnage would be \$419.80 with per car mile earnings of 49.64 cents.

Mr. Examiner, taking into account this additional two cents per hundredweight increase, the combined inbound and outbound charges per car become \$464.78 and the per car mile revenue is then 52.4 cents on the weighted average totals.

Before I refer to the next exhibit 29, I'd like to make some corrections on it. On the first page show the truck distance Union Hill to Morris, change the figure from 28 to 36. The total of that column would then be 151.1. In the third column change 128.5 to 116.5 and the last column the circuitry, change 880.1 to 797.6. I have one similar correction on the second page, that is from Priscilla to EaSalle, where we show nineteen miles, change that to eleven; the total then from 173.3 to 165.3. In the third

column change excess mileage from 104.7 to 96.7 and then the last column, circuitry change from 152.6 to 140.9.

[fol. 461] This exhibit 29 shows the wasteful transportation involved in the movement of corn from typical Kankakee Belt stations on the New York Central via truck to Illinois River landings, thence barge to Chicago and rail to Kankakee versus the movement from these origins direct via rail to Kankakee. On pages one and two of this exhibit we have listed representative origins situated on the Kankakee Belt of the New York Central Railroad and have shown the highway distances from these origins to the logical river port. To this distance we have added the number of miles to Chicago via Mechling Barge Lines and the New York Central Railroad distance from Chicago to Kankakee, thus producing a total distance from such origins via truck-barge to Chicago, plus additional rail distance to Kankakee.

Opposite such total distances we have shown the direct rail distance from each such origin to Kankakee. In the third column we show the excess mileage involved by the movement via Chicago versus direct movement to Kankakee. In the last column we have indicated the degree of circuitry by percentage.

It will be observed that the truck-barge-rail distances range from 140.1 miles, that would be at Blair, to 171.3 miles while the direct rail mileages to Kankakee range from 14.6 miles to 73.4 miles. The excess mileage via [fol. 462] Chicago to Kankakee ranges from 96.7 to 117.1 miles, with range in circuitry from 133 percent to 797.6 percent.

Q. Mr. Harron, referring to page three of this exhibit, do you have changes to make on that, similar to those you made on the first two pages?

A. Yes, the same changes I made on pages one and two should be made on page three of the exhibit.

Q. Will you state what changes should be made on page three?

A. The same changes should be made on page three as were made on pages one and two.

Q. From Union Hill to Morris on the map we show a distance of twenty-eight miles.

A. That should be changed to thirty-six miles.

Q. And from Priscilla to LaSalle you show a distance of nineteen miles.

A. That should be changed to eleven miles.

Q. Is that all the changes that should be made on page three?

A. That's all the changes that should be made.

Page three of this exhibit is a map showing the origins selected and the river landings, indicating the distances between such origins and river landings. When grain moves direct via the New York Central to Kankakee, our previous exhibits show that reshipping rate from Kankakee, which is [fol. 463] the same as that applying from Chicago, is plused by five and a half cents per hundredweight inbound as contrasted with the movement and incidental expenses involved when we are forced to purchase from Chicago Terminal Elevators which moves from Chicago to Kankakee, a distance of some seventy-five miles. This moves at a billing rate of six and a half cents per hundredweight and, after milling at Kankakee, is reshipped east at the balance of the Chicago reshipping rate.

This concludes my direct testimony.

Mr. Murphy: The witness is available for cross examination, Your Honor.

Cross examination.

By Mr. Chartrand:

Q. Mr. Harron, on your exhibit 28, on page seven thereof, do I understand that the earnings per car mile for the total movement from origin to final destination is fifty plus?

A. Right, from Chicago.

Q. Fifty point sixty-nine cents. Now what is the minimum rate in connection with this five and a half cent rate?

A. The minimum rate into Kankakee?

Q. Yes.

A. A hundred thousand pounds.

Q. If a car weighing a hundred thousand pounds from Streator to a point in Vermont moved through direct, a hun-

[fol. 464] dred thousand pounds in and a hundred thousand pounds out, it would be the Kankakee combination of five and a half plus a hundred thousand on the proportional rate going to the east?

A. Plus the proportional rate from Kankakee.

Q. And you are not bound to the minimum hundred thousand pounds in connection with the proportional from Kankakee to the east?

A. No.

Q. Is there no restriction in so far as transit is concerned that applies to the highest in and out rate?

A. No, there isn't.

Q. Referring to your exhibit 29 you have taken the truck distance from Union Hill to Morris, nothing is shown here with regard to the truck distance with regard to Joliet or Lockport. Would it move that way?

A. I asked for routes by typical origin. I don't know whether this grain is trucked to Joliet or Lockport and I also noticed by the way, I think there was a substantial barge movement from Morris, Illinois indicated by Witness Tascik's exhibit. I don't know whether this grain is trucked to Joliet or Lockport.

Q. So you have not included any barge loading points north of Morris or south of Spring Valley?

A. That is true, I have not.

[fol. 465] Q. And in showing Union Hill, the truck distance from the New York Central shipping point of Union Hill to the barge loading point at the river, is that the way the competitive traffic moves?

A. First explain what you mean by competitive traffic.

Q. You are showing the circuitry under the truck-barge-rail to Kankakee and then you are showing rail direct to Kankakee.

A. Right.

Q. Is that first total 151.1 miles, is that the competitive movement, the route via the competitive movement or the total mileage via the competitive movement?

A. That is of course you appreciate the excess mileage here that it takes if we buy corn at Chicago and we get X barge corn. If it comes from this territory; that's the purpose of this exhibit to show the circuitry in that.

Q. Under the competitive conditions?

A. That's right. Now I have to take a short haul point with the long haul point, I have to average them out.

Mr. Chartrand: Yes. That's all. Thank you.

By Mr. Legg:

Q. Mr. Harron, in your exhibit 28, in computing revenues for shipments beyond Kankakee you have included only destinations in eastern territory?

A. That is true.

Q. And the reason you did that is that there were no [fol. 466] shipments in central territory up until the end of August 1957?

A. That is true.

Q. Under this rate. There might be shipments to central territory as the rate now stands, under the presently effective supplement?

A. Under the present effective supplement, the five and a half cent rate would apply to central territory. I don't know if it has ever been used or not, but when this exhibit was prepared, the only shipments that had been made were those to the destinations shown here.

Q. In computing the revenues you have included the revenues of connecting carriers as well as those of the New York Central Railroad, have you not?

A. Oh, yes, this is the revenue for the total distance hauled via the routes shown in this exhibit here, so that includes the revenue of all the carriers via those carriers, Mr. Legg. On page eight of this supplement there are shown the routes and that includes the revenue for those carriers shown.

Q. You have no information available to you which would allow you to compute the revenue to the New York Central alone on its share of the haul?

A. No divisional information available to the shippers.

Mr. Legg: I have no further questions.

[fol. 467]

By Mr. Freeman:

Q. I just have one or two. What is the minimum weight out of Kankakee that is available in the five and a half cent rate?

A. Under the milling in transit shipments, the tariff rate throughout Official Territory including the movement from Kankakee is forty thousand pounds on all grain products and our average weight is 81,775.

Q. Just for the purpose of clarification, I want to understand just what your outbound weights, how you arrived at those outbound weights. Is the product shown on the bill exclusively Kankakee billing?

A. Say that again.

Q. Is the weight based out of Kankakee based exclusively on Kankakee billing?

A. You mean Kankakee billing, bulk billing from these west end shipments?

Q. Yes.

A. Yes, these are the shipments on which we apply the five and a half cents.

Q. And there is no mixing of bills?

A. Not on any of these shipments.

Q. I see. Now you gave one of your intrastate rates which would be applicable on the shrink grain. Have you shown those any place? I don't find them.

A. Oh, yes, it is shown on each page for each group, Mr. [fol. 468] Freeman. If you will take page two, I can go over that with you.

Q. I find it.

Mr. Murphy: Just answer the question.

By Mr. Freeman:

Q. Is the source of your inbound weights taken from the freight bills or the way bills?

A. Actual freight bills as we paid the charges.

Mr. Freeman: No further questions.

Redirect examination.

By Mr. Murphy:

Q. I have one question on redirect, Mr. Harron. Directing your attention to Exhibit No. 29 and referring to Mr. Chartrand's question, in your distances via the truck barge rail route are they intended to portray the fact that all of the corn moving via the barge rail route moves from those particular rail stations?

A. No.

Mr. Murphy: Thank you, that's all I have.

Mr. Chartrand: But, Mr. Harron, does it portray the route via which it would travel if the New York Central shipping point of Union Hill moved the corn via the competitive mode of transportation?

The Witness: If the grain moved from Union Hill to Morris, it would be a circuit of 797 percent.

Mr. Chartrand: That's all.

Exam. Dahan: Do you offer the exhibits?

[fol. 469]

OFFERS IN EVIDENCE

Mr. Murphy: I offer Exhibits 27, 28 and 29 into evidence.

Exam. Dahan: If there is no objection, they will be received. You are excused, Mr. Harron.

(Applicant's Exhibits Nos. 27, 28, and 29, Witness Harron, were received in evidence.)

(Witness excused.)

Mr. Murphy: Your Honor, that completes our direct case.

Exam. Dahan: That complete Applicant's direct case. Are protestants ready to proceed?

Mr. Freeman: Yes, we are Your Honor.

Exam. Dahan: Let's have a five minute recess before we proceed.

(Short recess.)

Exam. Dahan: Come to order please.

Are you ready to proceed, Mr. Freeman?

Mr. Freeman: Yes. Before calling my first witness I'd like to introduce as an exhibit of counsel, Exhibit 700 in ICC Docket 31874, sometimes known as the Southern Grain Case, which exhibit was offered on behalf of the Central Territory Railroads which are the applicants in this proceeding.

Mr. Murphy: Your Honor, I object to the introduction of this exhibit into evidence on the grounds that George Javoronok, I am not too sure who he is other than what is [fol. 470] said in this statement, this is not a verified authenticated copy of what it purports to be and I have no opportunity to cross examine or establish whether or not what is said here would be in any way pertinent to the issues here. I think this thing of trying to lift part of a record of one case bodily out and put it in another case without there being any opportunity to see what cross examination went in in connection with this evidence, to see what explanation may be given in this evidence, is incompetent. I vigorously object to that way of making a record.

Mr. Freeman: This, if the Examiner pleases, is clearly admissible as an admission under the rules of evidence by one party in a case before the Commission in another case involving the same parties.

Mr. Murphy: But not the same litigation.

Mr. Freeman: I must apologize for not having a certified copy. I will in accordance with the rules of the Commission if the opposition insists have this copy certified by the Secretary of the Commission.

Mr. Murphy: This could not even come in as an admission because the same issues are not involved. I submit that picking a little portion of another record and bringing it in here without qualification or explanation, certainly doesn't give us an opportunity to inform this record how [fol. 471] it might be pertinent or how much weight it is entitled to.

Mr. Freeman: I may say for the record that this was offered by counsel Tolmey in the Southern Grain case on behalf of the Central Territory Railroads who were defendants in that case and that the New York Central was

590 by Mr. Leiper) 805 482
cross (by Mr. Hayes) 807 484

a defendant in that case, just as they are an applicant in this case. The Central Territory were defendants in that case just as they are party applicants in this case, and it is clearly admissible as an admission.

Mr. Murphy: The issues and the nature of evidence that may be presented in that case are entirely different. I haven't seen this at all, but I do object.

Mr. Freeman: Mr. Leiper represented the New York Central in that case and he can speak for this exhibit.

Exam. Dahan: We'll mark it as Exhibit 30.

Mr. Murphy: Is there to be testimony in regard to this exhibit?

Mr. Freeman: Not by us. Now I would like to call Mr. McWilliams as the first witness on behalf of the Protestants.

(Protestant's Exhibit No. 30, Counsel Freeman, was marked for identification.)

JOHN C. McWILLIAMS was sworn and testified as follows:

[fol. 472] Direct examination.

By Mr. Freeman:

Q. Will you state your full name and address?

A. John C. McWilliams, 859 Warner Building, Washington 4, D.C.

Q. In what profession are you engaged, Mr. McWilliams?

A. I am engaged as a transportation statistician and cost analyst.

Q. What experience or background have you had in this field?

A. My experience in the field covers a period of twenty-two years. I was employed for six and a half years in the Bureau of Transport Economics and Statistics of the Interstate Commerce Commission, and upon the creation of a Cost Finding Section within that Bureau I was assigned to the new section. My duties there included the drafting of formulas, for the analysis of the costs of various forms

of transportation, the application of such formulas and the analysis of costs and other statistical studies introduced before the Interstate Commerce Commission in cases before it.

Exam. Dahan: I want it understood I haven't received the Exhibit. I merely marked it for identification.

Mr. Freeman: May we have a ruling?

Exam. Dahan: Are you going to examine the witness in respect to this?

[fol. 473] **Mr. Murphy:** He was just offering it as counsel's exhibit.

OFFER IN EVIDENCE

Mr. Freeman: I was asking for it to be marked and I do offer it.

Mr. Murphy: He offered it as counsel's exhibit and I have objected.

Exam. Dahan: Under the rules of evidence records in other Commission proceedings where offered, the parties represented at the hearing must stipulate upon the record that portions or a portion may be incorporated by reference and that any other portion of that same proceeding that opposite party may want to have incorporated by reference may be received. Now of course it is subject to objection and if you can offer it as counsel's exhibit we have to know what it is in order to be able to rule on it. The fact that it is testimony that was presented in another hearing doesn't mean it has any relevancy in this case.

Mr. Freeman: I will be glad to make a statement with regard to its relevancy. Southern Grain Case is a case still in process which involves the level of rates from Western Trunk Line territory and Eastern Territory to the south from origins which include the states of Illinois and Indiana, include the transportation service indeed which is in issue here. It is a complaint proceeding brought by [fol. 474] the Southern Governors Conference and as I stated before the New York Central and other Central Territory Railroads are party defendants. This was a cost study offered by Witness Javoronok, who is an employee

of the Pennsylvania Railroad. It was offered however on behalf of all Central Territory Railroads.

Exam. Dahan: Including the applicant here?

Mr. Freeman: Including the applicant here. A number of special studies were made to examine the characteristics of the corn and other grain movements. Those special studies were participated in by the New York Central, the applicant here. Such studies included origin, weights, switching, including switching at Indianapolis, a study which was made by the way by the New York Central, carloadings, station clerical costs, special services including grain doors, loss and damage and so forth; a very complete study, cost study by these railroads of the service characteristics of moving grain from points which are here in issue.

Exam. Dahan: Do you have something to say?

Mr. Murphy: Yes, Your Honor. First the issues in that proceeding are different. There you had movements to the south, here we have movements to the east. Many of the defendants in that case are not parties to this case. The Plaintiffs to this case are not parties to that case. [fol. 475] Second, the destination territory is not the same. For another thing I don't know if there was cross examination of this particular witness named George Javoronok. I don't know anything about it other than I have something here that purports to be something said by George Javoronok and it doesn't even say where he said it or when he said it and I certainly object to the introduction in evidence of other records, partial records of other proceedings into this case.

Exam. Dahan: Does this embrace the complete transcript?

Mr. Freeman: Mr. Leiper can check my understanding of the matter which is that there was no cross examination of Mr. Javoronok. Am I correct, Mr. Leiper?

Mr. Leiper: I am not at all certain that I was present at any hearing in which this was entered in evidence. I have been in appearance at certain hearings in that proceeding. It escapes my memory as to whether or not I was present at this particular session.

Mr. Freeman: May I ask if the New York Central does have a transcript of this proceeding?

Mr. Leiper: No, it does not.

Mr. Freeman: Does the Central Territory here in Chicago have a transcript of this proceeding?

Mr. Leiper: I am not at all certain.

Mr. Freeman: I think if you check you'll find you do.

[fol. 476] Mr. Chartrand: We'll bring a copy of the transcript of this witness for examination or for discussion here if you so wish.

Mr. Murphy: I don't think that will do any good, just to show what page so and so said this. They are trying to extract a small portion of the evidence in that record and transpose it into this record and that is clearly inadmissible under the rules of evidence.

Mr. Freeman: May I give the transcript reference? It's pages 7659 through 7668. I must confess I am a little taken aback.

Exam. Dahan: Is there any other part of the transcript you'd like to have admitted?

Mr. Murphy: I don't know the record, Your Honor. It certainly puts us at a disadvantage.

Exam. Dahan: I am going to receive it in evidence. The objection is overruled.

(Protestant's Exhibit No. 30, Counsel Freeman, was received in evidence.)

Mr. Freeman: May we proceed, Mr. Examiner?

Exam. Dahan: Yes.

The Witness: For three years after leaving the Interstate Commerce Commission I was employed by the American Trucking Association, initially as director of research and later as chief economist. My principal duty there in [fol. 477] cluded a continuing analysis of both motor and rail costs. Since August 1945 I have been engaged in private practice preparing cost analysis of motor carrier costs, railroad costs, bus costs, and testified before this Commission on numerous occasions and before numerous state commissions.

By Mr. Freeman:

Q. Have you prepared two exhibits, Mr. McWilliams?
A. I have.

Mr. Freeman: May we have them marked for identification please. One is entitled Summary of Service and Traffic Unit Costs, Box Cars.

Exam. Dahan: Number 31.

Mr. Freeman: And the other is Application of Costs at Current Levels to Corn Movements on the Kankakee Belt.

Exam. Dahan: Number 32.

(Protestant's Exhibits Nos. 31 and 32, Witness McWilliams, were marked for identification.)

By Mr. Freeman:

Q. Before explaining these exhibits, Mr. McWilliams, will you set forth the sources of the material which you have used in these exhibits? A. The sources are basically of two types. The figures for the eastern district are derived from Statement 1-57 of the Cost Finding Section of the Interstate Commerce Commission and those for the New York Central are the result of an application of [fol. 478] rail form A. The rail cost formula of the cost section to the figures for the New York Central. The cost statement 1-57 is the result of applying rail form A to the figures of the carriers in the eastern district as a group. This formula designated as Rail Form A was initially drafted for use in Docket 28300. I participated in the drafting of the original Formula and in the later revision of it I sat in with a consulting group as to the changes that were made in the formula. From the standpoint of principle, there have been no substantial changes in the formula since its initial drafting. Its function is to separate the expenses of railroad operation among the various elements of service performed, and to develop for those various elements of service unit costs which may be applied against traffic. Its primary use has been to test the compensativeness of segments of traffic.

The first Exhibit 31 is a summarization of those unit costs. The data on lines one to 21 refer to out of pocket

costs and on the succeeding lines to constant costs. In the application of rail form A, the out of pocket costs are considered to be eighty percent of operating expenses, rents and taxes other than income taxes, a return of four percent on the value of equipment and a return of two per cent on the value of other property. The use of those percentages [fol. 479] is to reflect that the return on equipment is one hundred percent out of pocket element and that the return on other property is fifty percent out of pocket. The constant costs include the remaining twenty percent of operating expenses, rents and taxes other than Federal Income Taxes, the deficits from passenger and less carload service, the return on the remaining freight value of property, of the remaining two percent and a return of four percent on property dedicated to passenger and less than carload service. As to income taxes themselves the income taxes related to the return treated as out of pocket is an out of pocket element of cost. The Federal Income Taxes related to that portion of the return treated as constant is a constant element of cost.

The first seven lines of Exhibit 31 set forth various elements of terminal cost for box cars, the first two elements, switching and freight train car expense, reflect on a territorial average a reloading at the spot of unloading on twenty percent of the cars. In other words those figures are one hundred eighty percent of a terminal handling. They are short of two full terminal handlings to that extent. The next item, station clerical is an amount per car as are the special services line six. I have shown on line eight the carload platform cost per ton, which is again a territorial average in the case of the east or a system average in [fol. 480] the case of New York Central, but have not used that particular element of cost in connection with my other Exhibit 32. I developed at lines 11 through 14 the out of pocket interchange costs for one carrier's service, and that is for a load or empty, but not both. Thus those figures if they were to be used to get a complete interchange cost between two carriers would be multiplied by four.

In the next group of entries I have shown as a result of the Form A application the cost per car mile which is uniform as to all three types of train and the gross ton mile

costs which vary as among the three types of car. Under the heading of constant cost I have shown the terminal cost per hundredweight, the interchange cost per hundredweight for one carrier's participation and the line haul portion of the constant cost per hundredweight mile. I might say in the car mile costs in lines sixteen, eighteen and twenty, I have eliminated any element of interchange switching cost in this broad use of the formula. The cost section in statement 1-57 includes interchange cost as being a variable factor with distance, but it does provide for eliminating that element and that is what I have done here. As to the levels of cost, statement 1-57 is based on the operations of the eastern district railroads for the year 1955 adjusted to the January 1, 1957 levels. The basis of [fol. 481] that adjustment was to obtain and this is the adjustment which is set forth in statement 1-57, was to obtain an index of cost levels at the date January 1, 1957 and to apply it to the operating expense portion of the costs, and that's what I have done here or shown here. The method which was followed.

By going to the work papers underlying statement 1-57 I was able to obtain the separate entries in columns three and four and column five was obtained by the Cost Section and can be obtained here with one exception which I will discuss by increasing the amount in column three by 11.2 percent and then adding to that the element of return on value from column four. Thus the adjustment to a later period did not contemplate or reflect any increase in the cost of return on value. The one exception to what I have said is in the constant cost per hundredweight at line 23, and per hundredweight mile at line 25. Those constant costs include among other things the deficit from passenger service and thus an 11.2 percent increase in operating expenses would mean an increase of a greater amount in the passenger deficit itself, and if you made the check you'd find that the increase in the constant cost, the operating expense portion, was about sixteen or seventeen percent rather than 11.2 percent. Again these are merely the figures which underly statement 1-57. The figures at the current [fol. 482] level for eastern district are based on an analysis of the cost increases claimed in Ex parte 212. The total

operating expenses, rents and taxes other than Federal Income Taxes for the year 1955 as shown in Statement 1-57 at page 91 were to the nearest million, 3,426,000,000 dollars. Analysis of the cost increases claimed in Ex parte 212 and by analysis of Witness Getty's Exhibit A in that proceeding, the cost increases over the January 1, 1957 level have been computed at 128,700,000 dollars, or an increase of three point seventy-five percent. I may have misspoken myself when I cited the figure of 3,426,000,000 from the statement 1-57. That was the volume of expenses for 1955 after adjustment to the January 1, 1957 level, so that the cost increase alleged in Ex parte 212 add another three point seventy-five percent to the annual volume of costs. So that the formula for getting column six of my exhibit 31 is to extract out of column five the return element shown in column four, apply three point seventy-five percent to that expense portion and then add back the return.

Now, in the case of the constant costs, that does not reflect the full impact of the cost increases for the reason I gave before. The same thing basically is true of the adjustments for the New York Central. The data for the year 1956 in column 7 and 8 are from my underlying work [fol. 483] papers of the application of Rail Form A to the New York Central figures. I analyzed their returns in Ex Parte 212 to the special questionnaire of the railroads and found that their net operating expenses, rents and taxes for the year 1956 excluding Federal Income taxes were \$720,925,000, that the cost increases claimed by them in Ex Parte 212 on an annual basis amounted to \$36,217,000. In addition to that there were material price increases beyond the 1956 level which had been set forth in the Ex Parte 206 proceedings which for the Eastern District including the Pocahontas region amounted to an additional one and a quarter percent increase in operating costs. That latter element, my reference on that is that the increase in material costs are set forth at the first mimeographed decision in Ex Parte 206 at Sheet 6. The annual volume of expenses are set forth in the second decision in Ex Parte 206, mimeographed decision at sheet 15. Those two elements totaled \$45,373,000 of increase in cost levels over the year 1956 or an increase on an annual basis of six

point twenty nine percent in the cost of the New York Central exclusive of return on value and Federal Income Taxes so that to get column nine of Exhibit 31 I used a rounded off percentage of six percent applied to column 7, adding to that the return element in column eight. The six percent obviously should be a higher figure than the three [fol. 484] point seventy-five percent used for the Eastern Districts because the latter figure is merely a trending from January 1, 1957 to current cost levels, whereas the six percent used for the New York Central is to convert its cost for the average of the year 1956 to a current level.

By Mr. Freeman:

Q. Have you completed your explanation of Exhibit 31?

A. I believe so.

Q. Would you explain Exhibit 32 please.

A. Exhibit 32, I have set up in Exhibit 32 an application of costs based on Exhibit 31 to a fifty ton load and to a fifty-five ton load of movement on the Kankakee Belt. The hundredweight per car on line one are merely a conversion of tons to hundredweight. The tare tons per car at line two are taken from statement 1-57 reflecting the tare tons of box cars. The car miles at line 3 are based on the average distance of 46.4 miles which was furnished to me by counsel, and reflect also a one hundred percent empty return movement. The gross ton miles are computed by multiplying the tare tons of 24.1 by 92.8 miles and the tons of load, fifty or fifty-five as the case may be, by 46.4 miles.

The hundredweight miles at line five are arrived at by multiplying the hundredweight in line one by the distance of 46.4 miles. In items six through 16 I accumulate the [fol. 485] various elements of cost. The terminal cost at line six was obtained by using the first three items, that's lines two, three and four, of Exhibit 31, but increasing the switching and the freight train car element to reflect one hundred percent empty spotting of box cars instead of the eighty percent factor which is reflected in the figures in Exhibit 31. That was done by increasing those first two elements of cost by eleven percent and adding thereto the station clerical cost at line four without any adjustment.

The next item of special services cost was obtained by adding to the special services cost shown at line six of Exhibit 31, \$11.36 as the cost of grain doors. I may say at the present time I am describing the development of columns two through five of Exhibit 32. The loss and damage clerical expense results from multiplying the unit cost from line nine of Exhibit 31 by the number of tons in the load, fifty or fifty-five as the case may be. Similarly loss and damage payments reflect the application to the fifty or fifty-five ton load of the unit cost per hundred pounds found in statement 1-57 at 1955 levels of .418 cents per hundred pounds. The car mile cost at line ten reflects the application of the car mile unit costs from line 18 of Exhibit 31 to the car miles loaded and empty, Item 3 of Exhibit 32. Similarly the gross ton mile costs in Exhibit 32 [fol. 486] result from applying the unit cost per gross ton mile from line 19 of Exhibit 31 to the gross ton miles, item 4 of Exhibit 32. These various elements added together developed the total out of pocket cost shown at line 12. The terminal constant costs were obtained by the multiplying the hundredweight from line one by the terminal constant cost per hundredweight from item 23 of Exhibit 31, and the line haul constant costs for line 14 of Exhibit 32 resulted from multiplying the hundredweight miles, Item 5 by the unit cost from Exhibit 31, line 25. Adding the total of the constant cost to the total of the out of pocket cost develops the fully distributed cost. Columns six, seven, eight and nine merely reflect dividing the costs per car developed in columns 2 through 5 by the applicable hundredweight for each load.

Q. Does that conclude your explanation of Exhibit 32?

A. Yes, sir.

Q. Will you define, Mr. McWilliams, as you understand it "out of pocket cost"?

A. Well, up to now I have given what elements are included in it. As to what the concept of it, it reflects those costs which over a sufficient period of time are influenced by the volume of traffic handled and which are in proportion to the volume of traffic handled.

Q. Sometimes referred to as—well, what are other terms [fol. 487] that are used?

A. Many terms, avoidable costs, marginal costs, direct costs, but as the term is used in rail form A and explanatory documents concerning rail form A, it basically is intended to include those costs which given a reasonable time lag will adjust themselves to volume of traffic.

Q. Those which vary with traffic?

A. That is correct.

Q. Does a showing of car mile earnings measure the compensatory level of a rate?

A. No, the car mile earnings taken by themselves do not afford a measurement of profitability. There are too many elements which affect costs for a car mile earning by itself to be meaningful. That is the basic reason why rail Form A was drafted in the first place. It was to give measurement to these factors which fall with different impact on different lengths of haul, different weight per car, number of interchanges involved, all of those are factors which produce differences in cost and none of which are reflected in a car miles earnings figure. When I say not reflected I mean not measured.

Q. Have you had an opportunity, Mr. McWilliams, to adjust your figure to take into account the different length of haul which has been discussed on this record by Witness Tascik?

[fol. 488] A. Yes, I have.

Q. If so, will you give us those figures for the record?

A. Well, of course I can give you the end result. I don't imagine you want all the calculations.

Q. No, the end result and the assumption you made.

A. They can be made merely by restating items 3, 4, and 5 of Exhibit 32 to reflect the different lengths of haul, then to apply as I have outlined in my direct testimony the unit cost from Exhibit 31 to those revised statistics. Doing that and going to the end result, the effect of using a 38.3 mile loaded haul to which Witness Tascik testified would change the entries at line 12 in the cost per hundred pounds column, in column six the figure of 9.66 would be reduced to 9.31. The figure for the New York Central would be reduced from 9.63 to 9.31 cents. In the next column the Eastern District figure would be reduced from 8.90 to 8.57 cents and in the last figure, New York Central

would be reduced from 8.87 to 8.56 cents. After these fully distributed costs in the last line, column six, the figure would be 13.24; column seven, 13.87; column 8, 12.50 and in column 9, 13.12. By the way, while I think of it, there is a minor typographical error in the Exhibit. Line 12, column 4, the figure presently reads 97.96 and it should be 97.90. That's purely a typographical error.

Q. The column on Exhibit 32, fifty and fifty-five tons, [fol. 489] reflect merely the difference in loading, Mr. McWilliams, the effect of the difference in loading?

A. That is correct, an increase in the loading per car reduced the out of pocket unit costs.

Mr. Freeman: The witness is tendered for cross examination.

Cross examination.

By Mr. Murphy:

Q. Mr. McWilliams, you indicate that car mile earnings have no validity for measuring the compensatory level of a rate. I ask you if there are factors other than costs that affect rates?

A. Very much so.

Q. What are those factors?

A. I can name them. There's a question of the value of service, what the traffic will bear, reasonable relationship of rates, all of the things provided for by the Act. I wasn't pretending to testify as an expert on those elements.

Q. You weren't intending that all rates should be fixed on a cost basis?

A. Not at all, sir. My testimony as to car mile earnings was that car mile earnings in and of themselves give no measurability or reflection of the relationship of revenues received to costs incurred.

Q. Are you familiar with what is known as the burden [fol. 490] study, a document or release prepared by the Commission's Bureau of Statistics and Economics?

A. Yes, I am.

Q. Is that the correct bureau?

A. No, that is released by the Cost Finding Section of the Bureau of Accounts, Cost Finding and valuations.

Q. Was this formula that you have referred to, Rail Form A, used in the preparation of the Burden Study?

A. Yes, it is.

Q. Have you reviewed that Burden Study from time to time as it is released by the Commission?

A. Yes, I have.

Q. Have you ever noted that there are substantial volumes of movement in certain commodity groups that move at rates that don't produce a revenue distribution over the out of pocket costs?

A. There are some, yes. Some factually do not make such distributions and in some cases it is because you have had a concentrated movement such as iron ore movements where the cost procedures haven't reflected the costs.

Q. You mean the costing procedures are not adequate to reflect true costs?

A. Not in connection with concentrated movements of tonnage of the iron ore traffic and heavy movements of coal, because of the fact that those studies have not been [fol. 491] made and the tendency in the Burden Study is to overstate the cost of handling coal and iron ore and conversely understate the cost of handling other products.

Q. But the Burden Study does show that using this formula that you have used some rates don't produce out of pocket costs?

A. That is correct, it does show that.

Q. Are there any agricultural commodities that don't produce out of pocket costs in the Burden Study?

A. I am trying to pick the place of reference. Do you want it for the United States or Official Territory?

Q. Any.

A. There are differences depending which way you look. The United States net total traffic figures which I am looking at—

Q. Pick just any agricultural commodity.

A. It shows lettuce, potatoes, not sweet, canteloupes, melons, fresh vegetables and celery as failing to contribute to the transportation burden in the year 1955.

Q. Now, Mr. McWilliams, were you with the Commission at the time that experiments were made to arrive at a cost formula for arriving at rail unit costs?

A. Was I with the Commission?

Q. Yes, when this form A was developed?

A. Yes, I participated in the original drafting of rail [fol. 492] Form A.

Q. What was the first case that was used in?

A. Docket 28300.

Q. What was the nature of that case?

A. That specific case was a general class rate investigation.

Q. And what was the issue in that case? Was it an issue of the relative levels of rates in various territories? Was it a territorial discrimination issue?

A. It was; the use of the formula in that case was to measure the differences and levels of costs among territories.

Q. And that was the purpose for which it was originally designed, to arrive at territorial unit costs?

A. That was the original purpose. Since then it has been used in many, many cases as a yardstick to set up a measure of comparison to test the compensatory nature of rates.

Q. Is there a pink book in front of you? Is there a caveat there about the use of these costs?

A. Yes, in the pink one, and in the carload cost scale publication itself.

Q. Would you mind reading that please?

A. Would you give me a reference, sir, to the one—

Q. You know it better than I do, I'm sure. I just have a [fol. 493] layman's recollection of it.

A. It is easier for me to find it here, sir, I can assure you they are consistent. The explanatory statement for 1-57 says the territorial figures, and these are the scales without any adjustment here, reflect the out of pocket cost for carload freight service under a wide range of operating conditions within each territory, including the type of car, the tare weight and percent of empty return movement, the net weight of load, the length of haul, and the types of train, whether they are way or through. Aside

from the factors listed the cost represents average operating conditions within each territory. Then in a later section of the same document reference is made to some of the adjustments which can be made if the specific circumstances of a particular movement vary from these standards. Is that the caveat you had in mind?

Q. Yes. In this formula it reflects the average costs reduced to a ton mile expense for the Eastern District Railroads, is that correct?

A. No, sir. Not at all. It reflects the, you made reference to the Eastern District Figures talking about those as distinct from the New York Central figures?

Q. That's right.

A. Those reflect not all costs reduced to a ton mile base, but measuring the various elements of cost that enter into [fol. 494] the transportation here involved. The transportation involved here is set forth in the first five lines of Exhibit 32. The unit costs for performing the various elements of service are in Exhibit 31, and then there is an application of the cost of performing various elements of service to the appropriate service units.

Q. To arrive at your average terminal cost for the Eastern District, would it be an average of the terminal costs of all eastern railroads which would include their terminal operation say at a port?

A. Yes, it would include operations of that type. It would include the operations of carriers like the Bessemer and Lake Erie, it would include the multiple car handling of coal by the coal originating roads in the Eastern District and the dumping of coal in large quantities with multiple car operation at ports and lakes and at the large users of coal.

Q. Would it include lighterage?

A. To a limited extent, yes. The total amount of lighterage service in the eastern district spread over all the cars handled in the eastern district results in a very small element of course.

Q. But that would be in there?

A. It would be in there, yes.

Q. Does it reflect cost of the New Haven Railroad?
[fol. 495] A. The Eastern figures do, yes.

Q. This terminal cost is based on an average number of switching minutes for originating a car for example?

A. Yes, it is.

Q. What is the average number of switching minutes per car in the east for example?

A. For the entire operation of the load, the empty, let's take them in chronological order, the empty and the load at origin, the load and the empty at destination on a hundred percent basis as I eventually adjusted my figures. In the eastern district that would include the total of sixty engine minutes per car.

Q. How many days would that car spend in as you have characterized it, a hundred percent empty return in both the origination and destination under the formula?

Exam. Dahan: I'll call a recess for a few minutes.

(Short recess.)

Exam. Dahan: Come to order.

By Mr. Murphy:

Q. I believe I had asked you how many car days were involved in the two terminals that you have priced out here?

A. Terminals alone?

Q. Yes.

A. Seven and a half days.

Q. Then you have allowed sixty minutes for the terminal, engine minutes for the switching at the two terminals?

A. Of the loaded and the empty, yes.

Q. Do you include any intra-train switching in your cost?

A. A very small amount, sir. I made a check on that and based on New York Central figures I had a dollar and sixty-one cents.

Q. A car?

A. A car. That's because it was put in on a car mile basis.

Q. How much effect does a car day in the terminal have on your cost?

A. You mean in terms of dollars and cents?

Q. Yes.

A. It will take just a moment.

Q. I just wanted to see you work that.

A. As used here about a dollar forty-six cents.

Q. Per car day?

A. About a dollar forty-six or forty-seven. I might explain how I got that. You have nine dollars, ninety two at line three, column nine of Exhibit 31. I increased that eleven percent to get my two full terminals and I divided that result by seven and a half days.

Q. Did you make any study of the operations in the Kankakee Belt?

A. No, sir. That type of study would purely be within [fol. 497] the province of the railroad.

Q. Have you ever been on the Kankakee Belt?

A. No, sir.

Q. Have you ever been to Kankakee?

A. No, sir.

Q. You've got a special service cost on here. What is included in the special service cost?

A. On Exhibit 32?

Q. Yes.

A. The principal element is the cost of grain doors which I mentioned at \$11.36.

Q. Per car?

A. Per car.

Q. Do you know what the cost of paper grain doors is?

A. No, sir, I have heard a figure mentioned to me. It is completely hearsay. It is nothing I know.

Q. Well, if paper grain doors cost four dollars a door, would that effect a \$7.35 change in your ultimate result?

A. If factually the cost of a grain door was four dollars instead of \$11.36, yes.

Q. Is the cost of grain doors you priced out based on the wood grain doors?

A. Yes, it is based on \$11.36 for a grain door.

Q. Is there a cooping cost in that cost for special services?

[fol. 498] A. Special services contains a composite of items, sir. I was trying to find as quickly as possible the language which would best describe it and quickest. Those

special services include expense for cleaning cars, removing dunnage, furnishing grain doors, bedding live stock, cooping cars, closing doors on hopper cars and so forth. That's spread over all traffic and as a result there is a dilution in doing it. You end up spreading much of the cost over mileage cars, tank cars, refrigerator cars, where these items do not apply, so there's a tendency for the special services cost to be understated.

Q. Do you have any cost for bedding live stock in the movement of grain?

A. You do not. That's what I meant by a dilution of cost. Basically you end up with a dilution of box car special services cost because these various items I listed are also spread over cars of refrigeration and tank cars where they do not apply.

Q. Do you end up with a price that may or may not be related to the type of movement involved?

A. You end up with a cost that tends to understate the cost on cars which do require special service because you have such a large volume of traffic against which such service does not apply.

Q. May or may not that be true when you use an average [fol. 499] that includes something like bedding live stock?

A. You end up with a cost that may not be an exact measurement of a particular service. The question then is whether that cost is too low or too high for the particular service rendered.

Q. Do I understand that you have a passenger deficit included in your cost?

A. Only in the constant cost, sir. The entries in Exhibit 31 through line 21 and Exhibit 32 through line 12 do not include any portion of the passenger deficit.

Q. Would the same thing be true in connection with the LCL deficit?

A. Yes, it is not contained in the out of pocket costs.

Mr. Murphy: Thank you. That's all I have.

Exam. Dahan: Is there any redirect?

Mr. Freeman: I just have one or two questions.

Redirect examination.

By Mr. Freeman:

Q. Have you had an opportunity to review the statement referred to as Exhibit No. 30?

A. Yes.

Mr. Murphy: Now I object to questions about something that some other witness said in another proceeding of this witness.

Mr. Freeman: I am merely going to ask him, and I think if you hear the question you'd find it unobjectionable, if [fol. 500] the statements on the first page of that exhibit referring to cost from statement 5-56 are based on Rail Form A.

The Witness: Yes. That was the statement previous to Statement 1-57 that was based on the year 1954 with cost adjusted to the January 1, 1956 level.

OFFERS IN EVIDENCE

Mr. Freeman: That's all. May exhibits 31 and 32 be received in evidence?

Exam. Dahan: If there are no objections Exhibits 31 and 32 are received. You may be excused.

(Protestant's Exhibits Nos. 31 and 32, Witness McWilliams, were received in evidence.)

(Witness excused.)

Mr. Freeman: I'd like to call as my next witness Mr. Wilson.

RONALD B. WILSON was sworn and testified as follows:

Direct examination.

By Mr. Freeman:

Q. Would you state your full name and address?

A. Ronald B. Wilson.

Q. By whom are you employed, Mr. Wilson?

A. The Indiana Farm Bureau Cooperative Association.

Q. In what position?

A. The grain division.

Q. What position do you hold with the Indiana Farm [fol. 501] Bureau Cooperative Association?

A. Assistant general manager of the grain division.

Q. How long have you been employed by the Indiana Farm Bureau Cooperative Association?

A. I started with the organization in July 1925.

Q. And what have your duties been in the period from 1925 to date?

A. Oh, I would say mostly freight traffic, buying and selling of grain.

Q. Prior to 1925 by whom were you employed?

A. Oh, I spent two or three years with the Central Inspection Weighing Bureau very shortly before that.

Q. Can you tell us briefly what kind of an organization Indiana Farm Bureau Cooperative Association is?

A. To state it briefly, I would state that they secure supplies and market their products in order to get the maximum benefit out of it, to be able to make their purchases as reasonable as possible and to get the maximum for the products which they have for sale.

Q. What kind of a corporation is it?

A. It is a corporation incorporated under the cooperative laws of the state of Indiana.

Q. Is it a Federated Cooperative?

A. Yes, it is.

Q. And what is its membership?

[fol. 502] A. Its membership, I believe the total membership in round figures is a hundred sixty thousand. They are broken down then I think in about eighty-six different associations, county associations and so on, cooperative associations and these various county associations and so forth often embrace, oh, one to several shipping points and receiving points.

Q. Are the members by and large farmers?

A. Yes.

Q. Farmers in Indiana?

A. Yes.

Q. What facilities has Indiana Grain Cooperative Association for handling grain?

A. We have five and a half million bushel house at Indianapolis and another elevator at Louisville of two and one half million bushel capacity.

Q. What volume of grain is handled by Indiana Farm Bureau Cooperative Association?

A. In recent years it has been running just about fifty million bushels per year.

Q. And what proportion roughly of that is corn?

A. I would say a good half of it to possibly just over.

Q. And to whom do you market the corn in the area and where is it marketed?

A. A large part of it is marketed I would say in what we [fol. 503] know here as Official Territory. However, some of it, a small amount goes into the south and it largely goes to various grain dealers, processors, distillers and so forth.

Q. Some of these people are located in the eastern part of the United States?

A. Yes, quite a number.

Q. Are you familiar generally with the issues in this proceeding?

A. I think so.

Q. Would you like to state the position of the Indiana Farm Bureau Cooperative Association on this record?

A. Yes. I have rough notes here that I think more or less portray the way the Indiana Farm Bureau Cooperative Association feels. I feel I am among friends here as we trade with both General Foods at Kankakee and the Evans Milling Company at Indianapolis. We also sell large amounts of grain at times in the Chicago market. We are members of both the Indianapolis Board of Trade and the Chicago Board of Trade. Our five and a half million bushel elevator at Indianapolis is located on the New York Central Railroad. However, we are very much opposed to the establishment of the low proportional rates to Kankakee which take the proportional rate from Kankakee when shipped beyond and which became effective on or about December 15, 1956. We would not in any way oppose such [fol. 504] reductions if they had been reduced proportionately from all intermediate points of origin to these eastern

destinations. No reductions were made from Indiana origins to the destination territory. Therefore this Illinois corn which is processed into products en route crosses the entire state of Indiana at a much lower, at much lower rates than it can be shipped from our Indiana origins to these same eastern destinations.

We have between a hundred and fifty and two hundred shipping points in Indiana to serve our grower members. Among these many shipping points for example are typical stations as Stockwell, Indiana, Clark's Hill, Indiana, Lebanon, Indiana, located on the New York Central. Corn from these points when milled in transit are rated sixty-nine and a half cents per hundredweight to New York and are wholly included in the movement provided for corn from the origins on the New York Central located on their Belt route west of Kankakee which are rated five and one half cents to Kankakee and fifty-four cents beyond, making a through rate of fifty-nine and one half cents to New York or ten cents a hundredweight less than our stations of Stockwell, Clark's Hill and Lebanon, although they are much farther removed from the destination territory and actually vibrate our elevators at Stockwell, Clark's Hill and Lebanon as these cars roar through those stations on [fol. 505] the same rails, following the same route in the same direction to the same destination territory. These typical stations used as examples are shown on the map furnished by Mr. J. R. Tascik and marked as Exhibit 1, in the lower right hand corner. Therefore, when we sell corn for milling in transit for our producer members from these representative stations, we can only net them ten cents a hundredweight less than if they were from the much more distant points located on the New York Central west of Kankakee, or we can state it another way; as all of us who are familiar with grain trading know that all markets are highly competitive and that when grain is sold in the eastern markets or basis the eastern freight rates all get about the same price on the same market. It is therefore readily discernible when we sell corn from the above mentioned three representative stations ten cents a hundredweight more freight has to be paid to reach these eastern markets than if the shipments were from those

stations on the New York Central west of Kankakee. History records that prior to the time an act to regulate interstate commerce was enacted, it was just such cases as this that brought about the enactment of the Act to regulate commerce. Then railroads set rates wholly—

Mr. Murphy: I object to what took place prior to 1887.

Mr. Freeman: Oh, I think his testimony is relevant [fol. 506] to this case. He is an intermediate shipper. He is telling you what he is opposed to in this case.

The Witness: I don't believe it will offend the record any when I relate it to this same instance. Maybe I'm wrong, but I think I am entitled to relate it.

Mr. Murphy: I have an objection pending.

The Witness: When rates were set wholly as they seen fit. Some undercut each other in many cases where two or three or more railroads served the same origin in an effort to get competitive or an advantage and held their rates much higher at the local intermediate points who had no choice of railroads to compensate for the much lower rates.

Mr. Murphy: I object to further testimony on this point, Your Honor. This historical narrative of what took place prior to 1887 is irrelevant.

Mr. Freeman: This man has lived with grain rates in the state of Indiana for a long period of time as he indicated by answers to questions with respect to his background.

Exam. Dahan: I will let him continue with his statement, but I want to confine the cross examination to the facts in the statement.

The Witness: To compensate for the much lower rates maintained at the competitive points. The only difference in this case apparently is that the carrier is cutting the [fol. 507] rates at certain points to get competitive with barge traffic rather than the traffic of another railroad. Mr. Tascik of the New York Central has stated that these reduced rates are compensatory. Assuming that to be true, then the Indiana intermediate points must be too high. If the reduced rates are not compensatory, then the much higher rates maintained at the intermediate points are compensating at least to some extent the loss incurred by the

much lower rates established to meet the low cost water transportation. In other words if these reduced rates are compensatory, then the much higher rates maintained at the intermediate points for the much shorter distances cannot be justified. The reduction of these rates from points on the NYC west of Kankakee without proportionate reductions from the intermediate points appears to us as contrary and repugnant to the principles establishing the act to regulate commerce requiring that charges for transportation shall be just, nondiscriminatory and equitable.

By Mr. Freeman:

Q. Does that conclude your statement of position?

A. Yes, it does.

Mr. Freeman: Witness is tendered for cross examination.

Exam. Dahan: I want the cross examination confined to statements of fact and not to any arguments or assumptions.

Mr. Murphy: I understand, sir.

[fol. 508] Cross examination.

By Mr. Murphy:

Q. Can you tell me what the basis of the rates from Indiana to the east is?

A. They vary.

Q. I don't mean the numerical basis, but the general way they are constructed?

A. The higher rates are from the west side of the state and they are graduated down to in the neighborhood of ten cents less from the extreme eastern side of the state on eastbound traffic.

Q. Are they on the Graham formula basis?

A. I am not familiar with the Graham formula. I have heard it so stated, but I do not know myself.

Mr. Freeman: You do not need to answer questions to which you cannot state facts.

By Mr. Murphy:

Q. Are you a traffic official of the Indiana Farm Bureau?

A. I used to be traffic manager for quite some years.

Exam. Dahan: He asked you are you now?

The Witness: Not directly within that, not wholly within that scope.

By Mr. Murphy:

Q. When were you traffic manager of the Indiana Farm Bureau?

A. I would say all the way through the 30's and most of the 40's until I'd say close to 1950, probably 1945 to '50.

[fol. 509] **Q.** Did you take part in a series of cases known as the Mechling cases?

A. No.

Q. Are you familiar with those cases?

A. Just in a meager way.

Q. Are you aware of the fact that corn can move through your territory on a, X barge corn on a reshipping rate of fifty-four cents?

A. Yes, I am.

Q. Are you aware of the fact that the barge rate from Lockport to Chicago is approximately three and a half cents?

A. No, I am not familiar with that.

Q. Well, you have seen some of Mr. Tascik's exhibits. Have you seen all of them?

A. No.

Q. Are you aware of the fact that the barge rail combination from Illinois River area through Indiana is lower than the local rate from Chicago?

A. No.

Q. You don't know anything about that?

A. No, I don't know that I have had occasion to look into that. I don't see wherein I have had any interest in that, at least it doesn't strike me that way at the moment. I am sure I am not familiar with that rate.

Q. Well, you were the traffic manager back in 1940?

[fol. 510] **A.** 1940, yes, I think that's correct.

Q. Weren't you aware of the fact that the barge rail combination through your territory in 1940 or shortly thereafter was lower than the local rates from your territory?

A. Well, for me to make a definite statement that I didn't know barge rates were lower, I probably couldn't state

that. I have always understood that barge rates were lower. We weren't too much concerned with it. We just marketed grain from our Indiana members.

Q. Are you in competition with Chicago at all?

A. I would think so. I would think that our marketing is in competition with all other markets more or less in the Official Territory. There's some that I might not need to be so closely in touch with, that's true.

Q. Well, assuming that the barge rail combination is lower than the local rates from your stations, would there be any change in the competitive situation if the railroads met the competition of the barge-rail rate?

A. I don't know. I'd have to give that some thought.

Q. You didn't examine any of those factors when you—

Mr. Freeman: Mr. Wilson said he's not familiar with the barge rates into Chicago or other costs incident to getting corn into Chicago, so your question doesn't have a proper foundation.

Mr. Murphy: I'll withdraw the question and ask another [fol. 511] one then, counsel.

By Mr. Murphy:

Q. You didn't have any factors other than the rail rates when you reached a decision as to what position you'd take in this case?

A. Now, wait a minute. I'm sorry, would you mind restating that again?

(Question read.)

The Witness: I think that I could say that that is true, that I didn't have any other particular factors.

Mr. Murphy: Thank you. That's all I have.

Mr. Freeman: I have nothing.

Exam. Dahan: You are excused, Mr. Wilson.

(Witness excused.)

Exam. Dahan: We'll recess until nine thirty Monday morning, Room 4, Lower Arcade, Board of Trade Building.

(Whereupon, at 4:30 p.m. the hearing was recessed until February 3, 1958 at 9:30 a.m.)

[fol. 512]

BEFORE THE INTERSTATE COMMERCE COMMISSION

Docket No. F.S.A. No. 33955

In the Matter of:

CORN AND CORN PRODUCTS—

ILLINOIS TO OFFICIAL TERRITORY

Transcript of Hearing—Monday, February 3, 1958

Room B-4, Lower Level,
Board of Trade Building,
141 West Jackson Boulevard,
Chicago, Illinois.

Met, pursuant to adjournment, at 9:30 o'clock, a.m.

Before: George A. Dahan, Examiner.

Appearances: As heretofore noted.

ADDITIONAL APPEARANCES:

James C. Scott, 401 South Columbia Street, Dwight, Illinois, appearing for Scott Grain Company.

I. M. Funk, Kernan, Illinois, appearing for I. M. Funk & Son.

E. S. Herron, Gilman, Illinois, appearing for Illinois Grain Dealers' Association.

Ronald E. Tallyn, Wenona, Illinois, appearing for Wenona Grain Company.

[fol. 512a] Lawrence Farlow, 521 McGregor Street, Bloomington, Illinois, appearing for Farmers' Grain Dealers Association of Illinois, intervener as its interests may appear.

[fol. 514]

PROCEEDINGS

Exam. Dahan: Mr. Freeman, are you ready to proceed?

Mr. Freeman: Yes, sir. I think Mr. Hayes wants to go forward with one of his witnesses.

Exam. Dahan: Are you ready to proceed?

Mr. Hayes: Yes.

Exam. Dahan: I just want to caution you. You will all have to speak loud while the air conditioning is going on so everyone will hear. Call your first witness, Mr. Hayes.

Mr. Hayes: Mr. F. A. Mechling.

F. A. MECHLING was sworn and testified as follows:

Direct examination.

By Mr. Hayes:

Q. Mr. Mechling, please state your full name and business address.

A. My name is F. A. Mechling. My business address is 51 North Des Plaines Street, Joliet, Illinois.

Q. What is your occupation and with whom are you associated?

A. I am executive vice president and treasurer of A. L. Mechling Barge Lines, Inc.

Q. How long have you been associated with A. L. Mechling Barge Lines, Inc. and in what capacity?

A. I have been with A. L. Mechling Barge Lines, Inc. [fol. 515] and its predecessor proprietorship, A. L. Mechling, doing business as A. L. Mechling Barge Line, since 1939, when I became its bookkeeper, dispatcher and office manager. In 1942, I became general manager of the proprietorship, and in 1947 I became vice president and treasurer of the corporation, continuing as general manager. In 1956, I became executive vice president.

Q. What are your duties as executive vice president?

A. I have general supervision of the entire operation and of the corporation, including its accounting.

Q. What is the nature of the operations of A. L. Mechling Barge Lines, Inc.?

A. A. L. Mechling Barge Lines, Inc. is a common carrier by water licensed by the Interstate Commerce Commission to carry; among other commodities, grain in Interstate Commerce to and from points on the Illinois Waterway and the Mississippi River and by the Illinois Commerce Commission to carry corn in intrastate commerce. It also is certified by the Interstate Commerce Commission to carry other commodities to and from points on the Upper Mississippi River and the Illinois Waterway to and from Tampa, Florida, as well as being certificated for certain other transportation. The company now operates 125 barges and 14 towboats of modern type and construction. It operates a sea-going tug of 1,000 horsepower in service [fol. 516] involving gulf passages which is certificated by the U. S. Coast Guard and the American Bureau of Shipping for gulf service. The power of its several towboats ranges from 325 to 2,500 horsepower. This company hauls more grain to Chicago than any other water carrier. Its share of the total water traffic in grain to Chicago ranges between 60 per cent and 75 per cent from year to year. It usually derives about 20 per cent of its total revenues from the Chicago grain trade and transportation of corn usually accounts for somewhat more than 60 per cent of the total of Mechling's revenues from its Chicago grain trade.

Q. Referring to your company, sir, as "Mechling," does Mechling carry corn from ports on the Illinois River between Spring Valley and Lockport to Chicago, Illinois?

A. It does.

Q. What are its present rates for such transportation?

A. It charges the rates set forth in our current tariffs on file. These rates are as follows: from Spring Valley to Chicago, \$1.04 per net ton; from LaSalle to Chicago, \$1.04 per net ton; from Ottawa to Chicago, 99 cents per net ton; from Seneca to Chicago, 44 cents per net ton—42 cents per net ton; from Morris to Chicago, 88 cents per net ton; from Joliet to Chicago, 78 cents per net ton; and from Lockport to Chicago, 73 cents per net ton.

[fol. 517] Q. How do these rates compare with rates on corn to Chicago charged in previous years by Mechling from this area?

A. Well, representative rates, for example, on March 1 of 1941, our rate from Morris to Chicago was 2 cents per

hundredweight, and our rate from LaSalle to Chicago was $2\frac{3}{4}$ cents per hundredweight.

On October 22, 1946 the rate from Morris to Chicago was $2\frac{1}{2}$ cents per hundredweight, and from LaSalle to Chicago, $3\frac{3}{4}$ cents per hundredweight. Effective on October 31, 1949 our rate from Morris to Chicago was $3\frac{3}{4}$ cents per hundredweight, and from LaSalle, 4 cents per hundredweight to Chicago. On December 6, 1957 our rate from Morris to Chicago was 4.4 cents per hundredweight, and from LaSalle to Chicago, 5.2 cents per hundredweight.

Q. Do you oppose the Fourth Section Application made by the railroads in this proceeding?

A. I do.

Q. What effect did the New York Central's promulgation on December 15, 1956 of the rate for which this application seeks Fourth Section relief have on shipments of corn carried to Chicago, Illinois by A. L. Meehling Barge Lines, Inc. from Illinois River ports in the area near the Kankakee Belt Line?

[fol. 518] A. It substantially reduced the amount of corn shipped to Chicago from these ports via Meehling. During the period from December 15, 1956 to August 28, 1957, when the New York Central's rate was enjoined, the amount of corn carried by Meehling from these ports to Chicago was less than it had been in the same period one year previously, even though the 1956 corn harvest in this area was substantially larger than the 1955 corn harvest had been.

Q. That injunction became effective on August 28, 1957. That was your intention.

A. Yes.

Q. Have you prepared or caused to be prepared under your direction and supervision, an exhibit showing the amount of corn hauled by Meehling from these ports to Chicago in these two periods of time?

A. I have.

Mr. Hayes: Mr. Examiner, we should like to have the exhibit to which the witness has just referred numbered consecutively as the next number, which I am informed is 33.

Exam. Dahan: Yes. But please identify the exhibits, and I will have them marked for identification. We would like to have them identified for the record.

Mr. Hayes: The exhibit to which I refer is entitled [fol. 519] "Corn shipments via A. L. Mechling Barge Lines, Inc. and Marine Transit Company to Chicago, Illinois."

Exam. Dahan: That may be marked for identification as Exhibit Number 33.

(Protestant's Exhibit No. 33, Witness Mechling, was marked for identification.)

By Mr. Hayes:

Q. I show you the exhibit which has just been identified for the record and which is entitled "Corn shipments via A. L. Mechling Barge Lines, Inc. and Marine Transit Company to Chicago, Illinois from Lockport, Morris, Seneca, Ottawa, LaSalle, and Spring Valley, Illinois, during the periods December 15, 1955 to August 28, 1956 and December 15, 1956 to August 28, 1957." Is this the exhibit to which you refer, which has just been numbered 33?

A. It is.

Q. Will you please explain this exhibit?

A. This exhibit shows the amount of corn in tons of 2,000 pounds carried by A. L. Mechling Barge Lines, Inc. and its wholly owned subsidiary, Marine Transit Company, during the periods specified from the river ports specified to Chicago. Marine Transit Company, although wholly owned by Mechling, was operated by Mechling as a separate company during these periods until April 27, 1957. As you can see from an examination of the exhibit, [fol. 520] there was a substantial reduction amounting to 50,503.43 net tons of corn carried by Mechling and Marine Transit in the period during which the New York Central's reduced rate on corn was in effect as compared to the period a year earlier. Two of the figures in this exhibit differ from those presented in my affidavit in the recent suit in the District Court of the United States for the Northern District of Illinois, No. 57 C 1450, entitled "A. L. Mechling Barge Lines, Inc., et al. versus United States of America, et al.," in that the number of tons carried from

Spring Valley to Chicago during the period December 15, 1955 to August 28, 1956 is 13,801.16 tons rather than 9,490.71 tons, as stated in that affidavit, and the amount carried from LaSalle to Chicago during the period December 15, 1956 to August 28, 1957 is 29,305.34 tons rather than 29,929.53 tons, as stated in that affidavit. These two errors in the compilation of these figures were discovered after my affidavit was presented and have been corrected for this exhibit. They increased the total decline in corn shipped during the later period from the earlier period by 4,934.64 tons.

Q. How much is the total decline in bushels of corn?

A. Since corn weighs 56 pounds per bushel, a decline of 50,503.43 net tons would equal 1,803,694 bushels. This decline occurred despite the fact that the corn crop in this [fol. 521] area was larger in 1956 than it had been in 1955, and we normally would have expected to have carried more corn in 1956-1957 than we had in 1955-1956. As will be seen later, the amount of corn and other grains which we carried from other areas to Chicago in 1957 was substantially more than the amount carried in 1956.

Q. Why did you not include the ports of Lacon, Henry, and Hennepin in your exhibit?

A. For several reasons. First all three of these ports in the past have been situated on about the dividing line between the territory selling to the corn markets at Memphis or New Orleans and the territory selling to the Chicago corn market. The comparative market conditions at Memphis, New Orleans, or Chicago have determined whether these elevators would send their corn north to Chicago or south to Memphis or New Orleans. Thus the great majority of the corn from all three of these ports went south in the earlier period shown on my exhibit and north in the later period. This fact alone made the use of these ports inappropriate in an exhibit designed to show the effect of the New York Central's rates on our Chicago corn trade from this area. Furthermore, it has been our experience in the past that corn moves south from Lacon, Henry, and Hennepin much more often than it moves north. In Lacon and Hennepin the situation may change because [fol. 522] the Illinois Grain Corporation, which has one of the two elevators both at Hennepin, and at Lacon, in June,

1957, opened its new elevator at Calumet Harbor in Chicago and therefore may tend to send more grain to it rather than to the south. I do not know how much influence this development may have. When the price of corn at Memphis or New Orleans is appreciably higher than it is at Chicago, I would expect the corn still to go south from these ports. I must add that I do not think it appropriate to include Lockport in this comparison, and I have done so only because both General Foods and the New York Central requested information regarding it in the recent court case. At Lockport our tonnage moved to Chicago has declined in 1957, at least in part, because Glidden has opened a river elevator there and we do not receive as large a proportion of its corn for shipment as we do from Cargill's elevator at Lockport.

Q. Why have you made no comparison for any later portions of 1956 and 1957?

A. Because the New York Central's 5½ cent rate was not in effect during September, October or November 1957. Thus during only the first 15 days of December was there any difference between 1956 and 1957. This period was too short to be significant. Furthermore the corn harvest in 1957 was delayed by wet weather whereas the 1956 harvest [fol. 523] proceeded normally. Thus any comparison of periods during the harvest seasons of 1956 and 1957 would be misleading.

Q. What was the effect of this decline upon the efficiency with which Mechling was able to use its barges during the first half of 1957?

A. During the period December 15, 1955 through June 30, 1956, the number of the barges of A. L. Mechling Barge Lines, Inc. assigned to service of grain movements from these six river ports to Chicago, Illinois, averaged ten barges of 40,000 bushel capacity and eight barges of 30,000 bushel capacity. The number of barge days in use during this period was 1,325 for barges of 40,000 bushel capacity and 1,231 for barges of 30,000 bushel capacity. The number of idle barge days during this period was 420 for barges of 40,000 bushel capacity and 318 for barges of 30,000 bushel capacity. During the period from December 15, 1956 through June 30, 1957, the number of barges assigned to this service averaged nine of 40,000 bushel capacity and

eight of 30,000 bushel capacity. The number of barge days in use during this later period was 895 for barges of 40,000 bushel capacity and 1,040 for barges of 30,000 bushel capacity, and the number of idle barge days during this period was 773 barges of 40,000 bushel capacity and 504 [fol. 524] for barges of 30,000 bushel capacity. These figures do not include data for Marine Transit Company for those periods up to its merger into A. L. Mechling Barge Lines, Inc. because such data is not readily available for Marine Transit Company during these periods, but from my conduct of the operations of Marine Transit during these periods, I believe that if such data were available it would also show that the number of barge days in use declined and the number of idle barge days increased from the earlier to the later of these periods up to the time Marine Transit Company ceased to exist. Furthermore, the number of idle barge days of both companies would have been even greater had not A. L. Mechling Barge Lines, Inc. been able to divert some barges from the hauling of grain from these six river ports to other cargo movements. Such diversions, however, are not always possible or economical since grain barges used on the Illinois River are smaller than those used for longer hauls and in other ways are not adapted for use on longer hauls.

Q. Did you have the same increase in idle barge time during the last half of 1957?

A. No. Beginning early in July more wheat was shipped by water to Chicago from Illinois Waterway ports than ordinarily is shipped, and in October we carried a substantially larger volume of soy beans than we have in the [fol. 525] past. The New York Central also did not have its low rate on corn in effect on the Kankakee Belt during September, October, and November 1957, because the rate was temporarily enjoined on August 28, 1957.

Q. Have you made a study or have you had a study made under your direction and supervision of the cost to Mechling of carrying corn and other grains to Chicago, Illinois from ports on the Illinois Waterway?

A. I have had a study made from our books and records kept in the regular course of business of the cost to A. L.

Mechling Barge Lines, Inc. of hauling all grains to Chicago from Illinois Waterway ports. It was not possible from our books and records to make a direct study for corn alone. Since the result of my study, however, is a unit cost per ton-mile, I believe that the study will enable me to approximate very closely the cost per ton-mile of carrying corn from the Illinois river ports between Spring Valley and Lockport to Chicago. Two factors tend to cause differences between costs per ton-mile for carrying grain from all Illinois Waterway ports to Chicago and costs per ton-mile for carrying corn from the Illinois River ports between Spring Valley and Lockport to Chicago. The first is that the costs for all grains include the costs for oats. Since oats weigh only 32 pounds per bushel as compared to 56 pounds per [fol. 525a] bushel for corn and rye and 60 pounds for wheat and soy beans, oats are a substantially lighter loading grain than the others. Therefore the costs per ton-mile are higher for oats than for the other grains for which the unit costs are substantially the same. On the other hand the average haul for all grains from all Illinois Waterway ports to Chicago tends to be somewhat longer than the average haul for corn from Illinois river ports between Spring Valley and Lockport to Chicago. This longer haul tends to decrease the ton-mile costs. Thus these two factors tend to balance each other out, but the effect of the longer haul [fol. 526] will be more significant than the effect of the cost. For this reason I will introduce a correction when I use the results of my study in the computation of costs of transporting corn to Chicago from these six river ports.

Q. Have you prepared an exhibit showing the results of your study of ton-mile costs of carrying all grains from Illinois Waterway ports to Chicago to which you have referred?

A. I have.

Mr. Murphy: Your Honor, I am going to object to the manner of going into evidence of Mechling's costs. I don't know that Mechling's costs are under investigation in this case. This is a case involving the lawfulness of rail rates, not the lawfulness of barge rates.

Mr. Hayes: Well, Mr. Examiner, so far as relative costs are concerned, that is of the essence under the stat-

ute, of the relationship which should prevail between competing types of carriers.

Exam. Dahan: We will mark the exhibit for identification. That is the exhibit headed "A. L. Mechling Barge Lines, Inc. operating cost." That will be marked Exhibit 34, when the exhibit is offered in evidence, you may make your objection.

Mr. Murphy: I am objecting to questions directed to [fol. 527] that point on the grounds that they are irrelevant.

Exam. Dahan: The objection is overruled.

(Protestant's Exhibit No. 34, Witness Mechling, was marked for identification.)

By Mr. Hayes:

Q. I show you Exhibit Number 34 consisting of three pages, which has just been marked for identification and which is entitled "A. L. Mechling Barge Lines, Inc. Ton-mile Operating Cost of Transportation of Grain from Illinois Waterway Elevators to Chicago." Is this the exhibit to which you referred now marked Exhibit 34?

A. It is.

Q. Will you please explain this exhibit?

A. Page 1 of this exhibit shows the computation of Mechling's ton-mile operating costs of transporting grain in the Chicago grain trade from Illinois Waterway elevators. For 1956, the average operating cost per ton-mile was 9.196 mills, and for the first eleven months of 1957 was 8.546 mills. The information for making these computations is derived from pages 2 and 3 of this exhibit.

Page 2 of this exhibit shows the total of Mechling's operating expenses—that is, all expenses except interest and federal income taxes—allocated to the transportation of grain by barge to Chicago from Illinois Waterway elevators. As you will see, the left column shows the results [fol. 528] for the entire year 1956, while for comparison purposes the right column shows expenses for the first 11 months of 1957. The expenses for the full year 1957 are not yet available.

These expenses are broken down into three major classes of costs: (1) the cost of operating boats controlled

by us, which is shown on page 2 as Direct Boat Expense; (2) the cost of operating barges controlled by us, which is shown on page 2 as Direct Barge Expense; and (3) the cost of securing outside assistance, which is shown on page 2 as Other Expenses. Other Expenses also includes damage to property of others and cargo insurance.

Direct Boat Expenses include repairs not covered by insurance; fuel and lubricants; food, stores and supplies; laundry; wages including payroll taxes and group insurance premiums; hull and protection and indemnity insurance; depreciation or rent; radar, radio and telephone expense; transportation of crew members; injuries to employees; bonuses; and administrative charges which will be discussed later. All of these expenses except administrative charges are charged directly to the boats, and the expenses for each boat are accumulated at the end of each month to arrive at a total of direct expenses for each boat within these classifications. Administrative charges in- [fol. 529] clude: (1) wages of all executives, departmental heads and office and clerical help, including payroll taxes, insurance premiums, travel expenses and the expense of company furnished automobiles; (2) legal, accounting, traffic and advertising expense; (3) general office expense including machinery and supplies; (4) building expense including depreciation and insurance; (5) other routine expense; and (6) interest. You will note, however, that in the exhibit interest has been deducted from the total direct boat expenses. Administrative costs are apportioned to each boat on the basis of one share for each boat having less than 1,000 horsepower, and two shares for each boat of 1,000 horsepower or more. Since the boats are the sources of our income and the larger boats can produce more income than the smaller boats, we have thought it reasonable to allocate administrative expenses to the boats. The allocation of 2 shares and one share is made because our boats of over 1,000 horsepower on the average have a little more than twice the horsepower of those under 1,000 horsepower and so tow about twice the pay load.

Total boat expenses are allocated among the different types of traffic transported by the boat in a month on the basis of the number of hours worked by each boat in each

particular trade classification. The Chicago grain trade [fol. 530] is one of these trade classifications. When a boat is used in the operation of more than one trade classification, an allocation of the time in each trade is made on our books, and the costs are allocated proportionately. For example, if a boat has two barges of grain destined for Chicago and two barges of sand in tow at midnight, and does not change the tow during the following 24 hours, 12 hours of the boat's time would be charged to the Chicago grain and 12 hours would be charged to the sand trade. If, however, the two barges of sand had been tied off at noon and the boat had continued on until the following midnight with the two grain barges, 18 hours would be charged to the Chicago grain trade, and 6 hours would be charged to sand, and the day's expenses of the boat would then be allocated three-fourths to Chicago and one-fourth to the sand trade. Daily analyses of the time use of each boat are kept and at the end of each month the hours for each trade are totalled and the percentage of time in each trade is determined. If a boat is laid up for an extensive period this lay-up then is allotted to the various trades in proportion to their shares of active time of the boat for that year.

Direct barge expenses are such that they may all be allocated to each barge directly. Each month the allocation [fol. 531] of barge expenses to the various trades is based on the number of days in any particular service. If the barge is used entirely in one trade, 100 per cent of its costs is charged to that trade. If it is used in one trade 20 days and another for 10 days, then 67 per cent of its monthly expense is charged to the first trade, and 33 per cent to the second. In such a case idle time following time in use would be charged to the same trade to which the time in use was charged. Extended lay-up periods are apportioned to trades on the basis of the proportions of the remaining time of the barge during the year allotted to the trades. If expense is incurred on a barge for the particular trade, this expense is charged directly to that trade before allocating the remaining expense of the barge in proportion to the number of days used in the various trades.

Other expenses include primarily the cost of securing outside assistance during peak periods when it becomes necessary to obtain towing assistance from other barge lines to move our barges. If a boat operated by another company moves one of our barges from one port to another for us, the expense is charged to outside towing. If the assistance is rendered within the confines of one port or harbor the expense is charged to harbor work or port expense. These expenses are charged to the trade to which the barge requiring the assistance is assigned at the time it receives assistance. Similarly cargo insurance and damage to property can be directly charged to trades, cargo insurance according to the type of cargo which is being insured, and damage to property according to the type of cargo being carried by the barge at the time the damage is inflicted. Both these last two items are very small, of course.

Page 3 of Exhibit Number 34 shows the number of tons of grain transported by barge to Chicago from Illinois Waterway elevators during the year 1956 and the first eleven months of 1957, the number of miles from each port to Chicago, and the total ton-miles hauled. Division of the total ton-miles shown on page 3 as 56,323,834 for all grains carried to Chicago into the total operating expenses, amounting to \$517,979.58 as shown on page 2, for the year 1956 gives the average operating cost per ton mile for moving grain to Chicago from Illinois Waterway elevators during the year 1956. This amounts to 9.196 mills per ton-mile for the year 1956, as is shown on page 1. For the first 11 months of 1957 the total ton-miles amounted to 89,394,138, and the total expenses from page 2 amount to \$763,951.80, making an average cost per ton-mile of 8.546 mills.

[fol. 533] Q. What was the reason for the decrease in ton-mile cost from 9.196 mills in 1956 to 8.546 mills in 1957?

A. The principal reason is the increase in volume of grain carried from Illinois Waterway ports to Chicago in 1957 over 1956. We have not had any appreciable increase in cost levels in 1957 over 1956, and our expenses therefore, although they have increased because of the additional work done, have not increased in direct proportion

to the increase in a number of ton-miles. In most of the areas along the Illinois Waterway grain moved in greater volume in 1957 than it did in 1956. Almost the only exception to that increase was the decrease in corn movements from the river ports between Spring Valley and Lockport to Chicago. The increase of volume of grain carried to Chicago has enabled us to use our equipment more efficiently since it does not cost materially more for a boat to tow four barges than it costs to tow two barges. Conversely any substantial reduction in the volume of grain hauled would result in a substantial increase in the cost per ton-mile of hauling that grain by reducing the efficiency of our transportation. If a substantial portion of the corn [fol. 534] traffic is diverted from river transportation to rail transportation, it will at least in part deprive the river transportation of its inherent low cost advantage over other modes of transportation with respect to the grain trade.

Q. Have you prepared an exhibit showing the computation of Meehling's average cost per ton for hauling corn from Spring Valley, LaSalle, Ottawa, Seneca, Morris, and Lockport to Chicago?

A. I have.

Mr. Hayes: I show you an exhibit entitled "Average Cost Per Ton of Transporting Corn from Spring Valley," and so forth for the year 1956. May that be marked Exhibit 35?

Exam. Dahan: It may be so marked for identification.

(Protestant's Exhibit No. 35, Witness Meehling, was marked for identification.)

By Mr. Hayes:

Q. I show you an exhibit which has just been identified as Exhibit Number 35, and which is entitled "Average Cost Per Ton of Transporting Corn from Spring Valley, LaSalle, Ottawa, Seneca, Morris and Lockport to Chicago." Is this the exhibit to which you refer?

A. It is.

Q. Please explain this exhibit.

[fol. 535] A. First I show the computation of the weighted average mileage per haul from the same six river ports, Morris, Lockport, Seneca, Ottawa, LaSalle, and Spring Valley to Chicago, for which the comparative corn shipments were shown in our earlier Exhibit Number 33. This shows that the total ton-miles of corn carried from these ports to Chicago in 1956 amounted to 36,941,918. The total number of tons amounted to 478,910.40, and the weighted average mileage per haul, computed by dividing 36,941,918 by 478,910.40, was 77.14 miles. Although we have not made a computation for the year 1957 of the weighted average length of this haul, I would not expect it to be substantially different from such length for 1956.

Q. Why did you not make the computation for 1957 of the weighted average length of haul?

A. We are not going to use the figure for 1957 to compute the cost per ton of transporting corn in 1957, because other figures for 1957 necessary for this computation are not available. We computed ton-mile costs on all grains for 1957 only as a check on the reasonableness of the cost computed for 1956 to see whether it were too low.

Q. Will you explain the computation in Exhibit Number 35 of the average cost to Mechling of hauling corn to Chicago from the six river ports, Seneca, Morris, LaSalle, [fol. 536] Lockport, Ottawa, and Spring Valley?

A. I applied the average operating cost per ton-mile for hauling grain from all Illinois Waterway elevators to Chicago to the weighted average mileage per haul from these six ports to Chicago. As I explained before, the ton-mile costs of hauling grain to Chicago from all Illinois Waterway elevators will closely approximate the ton-mile cost of hauling corn from these six river ports to Chicago. If the ton-mile operating cost computed for 1956 of 9.196 mills is multiplied by the weighted average mileage from the six ports to Chicago of 77.14 miles, the average operating cost per ton of hauled corn from the six ports to Chicago will be found to be 70.94 cents per ton. This cost, however, does not include any amount for return on investment or interest. To obtain a fully distributed cost which includes provision for these items in the same ratio realized from Mechling's business as a whole, we have divided the ton-mile cost by the ratio of Mechling's total expense, excluding

interest and federal income taxes to its gross operating income in 1956. This ratio for 1956 was 91.9 per cent, computed by dividing \$5,014,237, our waterline operating revenues, into \$4,606,023, our waterline operating expenses and waterline tax accruals. The figures for waterline operating revenues and waterline operating expenses are as shown in our annual report for 1956. [fol. 537] Meehling's ratio for 1957 is not yet available for application to 1957 ton-mile costs. The operating ratio of 91.9 per cent is also very close to the operating ratio of other similar barge carriers in the year 1956. For instance the operating ratio of Federal Barge Lines for 1956 computed in the same way was 91.0 per cent and for Blue Stack Towing Company was 88.2 per cent. If Meehling's operating ratio of 91.9 per cent is divided into the ton-mile cost of 9.196 mills for the year 1956, the resulting fully distributed cost is 1 cent per ton-mile. Multiplying the weighted average length of haul for corn from the six river ports to Chicago, I obtain the fully distributed cost for the average haul, amounting to 77.14 cents per ton, or 3.86 cents per hundredweight.

If this figure were to be corrected for increase in ton-mile cost caused by the lesser weighted average length of haul for corn transported to Chicago from the six named river ports, as compared to the weighted average length of haul for all grain from Illinois Waterway elevators to Chicago, the maximum increase in ton-mile costs would be about 14.0 per cent. The weighted average length of haul for all grain in 1956, computed by dividing total tons of 638,090 into [fol. 538] total ton-miles of 56,323,834, as shown on page 3 of Exhibit Number 34, was 88.27 miles. This figure is 14 per cent greater than the average haul for corn of 77.14 miles. Thus even assuming ton-mile costs decreased directly in proportion to the increase in the length of haul, which they cannot do since there is some additional expense for the additional mileage, the maximum increase in ton-mile costs for the shorter haul for corn would be 14 per cent. If the ton-mile costs on Exhibit Number 34 were increased by 14 per cent, the fully distributed average ton-mile cost would be 11.40 mills and the fully distributed cost on the weighted average haul for corn from the six river

ports would be 87.94 cents per ton, or 4.4 cents per hundred weight. This maximum cost was computed without taking any account of the effect of the lighter-loading oats on the ton-mile costs of transporting all grains.

Q. Are the exhibits you have spoken of, Mr. Mechling, now numbered 33, 34, and 35, true and correct according to the best of your knowledge and belief?

A. Yes.

Mr. Hayes: Cross examine.

Exam. Dahan: Mr. Murphy?

Mr. Murphy: Yes.

[fol. 539] Cross examination.

By Mr. Murphy:

Q. Mr. Mechling, you indicated on page 6 of your prepared testimony that your tonnage at Lockport declined because of the Glidden elevator there and the Glidden elevator in Chicago, is that correct?

A. Yes.

Q. You don't attribute any of the decline at Lockport to any factor other than that.

A. No. We think Lockport is a little far removed geographically from this general rate picture and from the New York Central Line in particular. We don't think there was any other effect on Lockport other than that Glidden elevator.

Q. Are you familiar with the total barge shipments from Lockport to Chicago during the periods that you have indicated on your exhibit, your Exhibit Number 33?

A. I am only familiar with the tonnages that we moved or that our subsidiary, Marine Transit Company, moved.

Q. Have you had an opportunity to see Exhibit Number 19 in this proceeding, which was submitted by Witness Tascik?

A. I have had the opportunity. I haven't really studied it.

Q. Did you note that the figures that he produced for the six ports and for the periods that you used are approximately [fol. 540] mately the same as the figures that you used?

A. That is exhibit—

Q. Exhibit 19.

A. On his Exhibit 19 he included ports of Hennepin, Henry, and Lacon, which we did not show in our exhibit.

Q. Directing your attention just to the ports that you used, for the period December 15 to August 28, 1956, as compared with his figures for December 15, 1955 to August 30, 1956, for the ports that you used, are not his figures and your figures very close?

A. Well, if my arithmetic is anywhere near correct, when I sat in the hearing room the other day, there is about 50,000 tons difference between those two figures.

Q. I ask you this, is it not a fact that the figures that he reported for the period December 15, 1955 to August 30, 1956 from Lockport to Chicago are very close to the figures that you report?

Mr. Hayes: I object to that. The witness has answered the question. If the figures are the same, the record will show it. The witness has said according to his arithmetic there is 50,000 tons difference.

Exam. Dahan: I think he may want to change his answer, though.

The Witness: You are comparing now in column 1 the Lockport figure of 42,759 tons compared to our figure [fol. 541] from Lockport in that same period of 39,653. Are those the figures you are comparing?

By Mr. Murphy:

Q. Yes. There is two days' difference in the periods you used, but isn't it a fact that your figures and his figures, in so far as you reported common figures, are approximately the same?

A. Well, that is true, I think primarily because the Glidden elevator didn't go into operation during that full period, came into operation at a later date, so that the only elevator shipping from Lockport at that time, during that period, basically, was the Cargill elevator. If you refer to the later column 2 figures, you will see that Lockport showed, in Mr. Tascik's exhibit, a shipment of 55,478 tons compared to our column 2 December 15, 1956 to August 28, 1957 figure of 16,726 tons, and that is the point that I

was referring to which reflects the addition of the Glidden elevator at Lockport on our tonnage.

Q. Isn't it a fact that the movement from Lockport to Chicago during the 1957 period was greater than the movement to Chicago during the 1956 period?

A. Yes, and I stated, I thought, Lockport being so far geographically removed from the New York Central-Kan-[fol. 542] kakee Belt Line in this case shows that Lockport was not so materially affected by that 5½ cent rate, and we only included the Lockport figures in our exhibits because it was requested of us in the District Court proceedings.

Q. Do you have any figures to compare the 1955-1956 period movements to Chicago by Mechling Barge Lines with the comparable movement in 1957, all origin ports to Chicago by Mechling Barge Lines on corn?

A. From all origin points?

Q. From Illinois River points?

A. From all Illinois River ports to Chicago?

Mr. Hayes: Do you mean all the way down the river to Grafton?

Mr. Murphy: He can give me the figures he has and explain what they mean and take it from there.

Mr. Hayes: I only want to know what you mean by your question.

By Mr. Murphy:

Q. I would be satisfied with the figures from Lacon to Chicago via Mechling Barge Lines for the 1956-1957 period.

A. Lacon to Chicago?

Q. Yes.

A. The period December 15, 1955 to August 28, 1956 on corn from Lacon to Chicago, we transported 11,225.58 tons.

[fol. 543] Q. I am sure I didn't make myself clear. I would like the total movement from the ports Lacon and north to Chicago for that period.

A. Then your ports would be Lacon, Henry, and Henne-pin.

Q. And Joliet, in addition to those that you have reported.

A. I have the figures for Lacon, Henry, and Hennepin. I don't have Joliet.

Q. Could you give them to me for Lacon, Henry, and Hennepin?

A. All right. Lacon, Henry, and Hennepin to Chicago for the period December 15, 1955 to August 28, 1956, was 24,596 tons. In the comparable period, December 15, 1956 to August 28, 1957, the tonnage was 75,522 tons.

Now, as I stated in my testimony—

Exam. Dahan: You have answered the question.

The Witness: I would like to qualify.

Exam. Dahan: You have counsel here, and he will ask on redirect if you want any other answers given. We want to go right along. He asked him for the figures, and he gave the figures.

By Mr. Murphy:

Q. Did you indicate that from the three ports for the 1957 period the total movement was 24,000 to Chicago?

A. That is correct.

[fol. 544] Q. There was a 50,000 ton increase from those three ports to Chicago during that year.

A. Yes; yes, sir.

Q. Your total corn movement to Chicago from Illinois River ports during the first eight months of 1957, was it greater or less than during the 1956 period?

A. That is on corn from all ports?

Q. Take the ten ports, sir, Lacon north.

A. Well, computing the drop-off from the points between Lockport and Spring Valley, the drop in tonnage, and adding the pickup in tonnage at Lacon, Henry, and Hennepin, those tonnages would be about the same.

Q. Which would be the higher, if you can tell us?

A. Offhand, they would be just about the same, 322,179 in 1956 and, roughly, around 321,000 would be the later period, 1957 period.

Q. I note from your Exhibit Number 34, page 3, that the total tons handled by A. L. Mechling Barge Lines, Inc. during 1957 exceeded the tonnage in 1956, is that correct?

A. Yes.

Q. And that the total ton miles also increased.

A. Yes, that is correct.

Q. How do you relate that increase—first an increase in corn tonnage, an increase in total tonnage, and an increase in total ton miles, to an increase in idle barge days?

[fol. 545] A. The barge fleet assigned to this particular area of the Lacon to Lockport section of the river was larger than necessary in the later period and had to be diverted to other uses.

Q. Did you have a larger fleet assigned there during 1957 than in 1956?

A. Not necessarily. We dropped some of the barges out of the section between Lockport and Spring Valley and utilized some of that capacity in other services, as I stated in my testimony.

Q. As a matter of fact, considering only your corn movement from ports Lacon and north to Chicago, your ton miles were substantially higher in 1957 than in 1956, weren't they?

A. Let me see if I understand. Would you read that again, please?

(Question read.)

The Witness: Yes, the ton mileage was greater because we are originating at longer distances and different traffic than we were moving in 1956.

Mr. Hayes: He asked you about corn.

By Mr. Murphy:

Q. Was your answer directed to corn, sir?

A. Well, you are speaking of the corn movement from [fol. 546] Lacon north.

Q. Yes, sir.

A. And that the ton mile was greater in 1957.

Q. I am asking you if that was a fact.

A. That is correct.

Q. Mr. Mechling, you gave him figures but didn't give any figures that indicate profit, and I am not going to ask you for the precise amount of profit—although I assume that is available in reports filed with the Commission

—but can you tell me whether or not your profits for 1957 were higher or lower than for 1956?

A. We haven't broken them all down yet, so I am just not able to answer that question right at the moment.

Q. You know your total net, don't you, without referring to any specific operation?

A. Over-all they are about the same, our total operation.

Q. Do I understand correctly that you increased your rates last month to the amounts that you read into the record, approximately .2 of a cent a hundred pounds or 4 cents a ton?

A. They were increased on December—

Q. The date is not—

A. They were increased by 4 per cent over the previous rate.

[fol. 547] Mr. Hayes: That was the last increase you referred to in your direct testimony?

The Witness: Yes.

By Mr. Murphy:

Q. Was that increase made because of your operating costs justified or required an increase in your rate structure?

A. Yes.

Q. You testified in regard to the larger corn crop in 1956 than in 1955, and I understand it is the 1956 corn crop that moved during the year 1957, is that correct?

A. Yes.

Q. Do you know whether more or less corn was placed in storage in 1957 under a government program than was placed in storage in 1956 under government program?

A. I don't know.

Q. To the extent that there could have been a substantial variance, that could have offset the increase in production, couldn't it?

A. You mean what went into storage?

Q. Yes. If there was a substantial variance in the amount going into storage, that could have offset an increase in production, could it not?

A. I don't see how it could affect production.

Q. You indicate that there was more corn available because of increased production.

[fol. 548] A. Well, if it was raised, it either went into storage or the free market, and it would still be the same number of bushels of corn, would it not?

Q. But if it was raised and a substantially greater amount went into storage in 1957 then the preceding year, there would be that much corn available for movement into the area, wouldn't there?

A. Will you read that.

(Question read.)

The Witness: I don't think I can answer that question. I don't know as it necessarily, just because that happened, it would affect the available corn to move by river.

By Mr. Murphy:

Q. You said you don't have the figures from Joliet with you, is that correct?

A. No, I don't.

Q. Isn't that an important port for Mechling Barge Lines on the Illinois Waterways?

A. Yes, there is a substantial movement from Joliet, but Joliet again is a little bit removed from this location of the New York Central-Kankakee Belt Line.

Q. Do you have any objection to furnishing the figures for Joliet as you have furnished them for the other six ports?

A. No.

[fol. 549] Q. I would appreciate receiving that sometime before the hearing is over if counsel has no objection.

Mr. Hayes: We don't have them here, counsel. Do you want them supplied to the record?

Mr. Murphy: I would very much appreciate it if you could. That is on corn, of course.

Mr. Hayes: We can supply those eventually—not today, but we will be here tomorrow. Perhaps it would serve your purpose to ask for the relative amounts in 1956 and 1957.

Mr. Murphy: No, I think the actual amounts, so it would correspond with the other figures shown on his exhibit, sir.

Mr. Hayes: All right. You say so it will correspond to the figures on the exhibits.

Mr. Murphy: Exhibit 33.

Mr. Hayes: You will notice Joliet is not there, for the reason, as the witness explained, it is too far distant from this territory—

Mr. Murphy: I understand Lockport is farther north of the New York Central than is Joliet, Mr. Hayes, so Joliet would be closer to the railroad than Lockport.

Mr. Hayes: By seven miles?

Exam. Dahan: We don't have to go into a conversation between counsel here.

[fol. 550] Are you all through with the examination?

Mr. Murphy: Just a moment.

By Mr. Murphy:

Q. You indicated on page 16 of your testimony, in discussing your statistics, that the average haul of 77.14 miles in 1956 wouldn't change substantially. Is it your position then that the decrease in tonnage shown from Lockport, Morris, Ottawa, and LaSalle and the increase in the tonnage from more distant ports, such as Hennepin, Henry, and Lacon, are insubstantial?

A. That's right; it wouldn't affect them substantially.

Q. It would increase them, would it?

A. I don't think it would affect them very substantially in either direction.

Q. It would have to be an increase, wouldn't it, sir?

A. It would be very hard to measure. It would be so slight.

Q. Well, if you have a weighted average figure and you take off the low figures and add on higher figures, would it increase or decrease?

Mr. Hayes: I submit that question is not susceptible of an answer, you increase your miles and increase your tonnage applied to those miles, that may—

Mr. Murphy: I have a question pending.

Exam. Dahan: We will find out if he is able to answer it.

[fol. 551] The Witness: It would be hard to answer that because in the case here there might be other grains come into the picture that may leave it about on the same basis; there would be no change, so far as the weighted average haul is concerned.

By Mr. Murphy:

Q. This weighted average haul of 77.14 miles, is that on all grains or is that on corn?

A. That is on all grains.

Mr. Murphy: I have nothing further.

Redirect examination.

By Mr. Hayes:

Q. I think you misspoke yourself perhaps in the answer to your—in answer to the last question. Would you look at your Exhibit 35? Do you find that figure, line 8, of Exhibit 35, that figure of 77.14 miles?

A. Yes.

Q. You have entitled your exhibit "Average Cost Per Ton of Transporting Corn," and so forth.

A. Yes.

Q. In that figure of 77.14 miles would be the weighted average mileage on corn and not on all grains, would it not?

Mr. Murphy: Are you correcting your witness, sir?

The Witness: Yes, that is correct.

[fol. 552] Mr. Hayes: Nothing further.

Exam. Dahan: Exhibits 33, 34, and 35, do you have any objection?

Mr. Murphy: Yes, your Honor. I object to Exhibits 34 and 35 on the grounds that that is immaterial to the issues of whether or not rail rates are lawful, barge costs. I object to their admission in evidence.

OFFERS IN EVIDENCE

Exam. Dahan: Exhibits 33, 34, and 35 are received in evidence.

(Exhibits 33, 34, and 35, Witness Mechling, were received in evidence.)

Exam. Dahan: You are excused.

(Witness excused.)

Exam. Dahan: Call your next witness, please.

Mr. Freeman: I think the Chicago Board of Trade, together with Meehling and Cargill have several country elevator witnesses who would like to go forward, and I think Mr. Roy Erickson is ready to proceed.

Mr. Erickson: If the examiner please, several of my witnesses aren't here; due to the fact that the Santa Fe Railroad was late and is still late there are one or two not yet here, but we can go forward with the witnesses we have, and we would like also at this time to enter appearances, separate appearances for these witnesses, and I shall appear for them as well.

[fol. 553] Exam. Dahan: It won't be necessary to read them all in the record as long as they are shown on the appearance slips.

Mr. Erickson: These gentlemen are all eligible to appear, being either owners or partners or direct employees of the firm.

Exam. Dahan: Very well. You mean the individuals are making appearances on their own behalf.

Mr. Erickson: On their own behalf, as well as my appearance.

Exam. Dahan: Then each one of those individuals will have to stand up, give his name and address and also indicate whether or not he has been admitted to practice, and if he hasn't to show whether or not he is an owner.

Mr. Erickson: Appearance slip for Mr. James C. Scott.

Mr. Scott: James C. Scott at Dwight, Illinois.

Mr. Erickson: You are a partner of the firm of J. C. Scott Company.

Mr. Scott: I am a partner of the firm of Scott Grain Company.

Mr. Erickson: And you appear on behalf of that firm only.

Mr. Scott: That's right.

Mr. Erickson: Mr. I. M. Funk.

[fol. 554] Mr. Funk: I. M. Funk of Kernan, with the firm of I. M. Funk & Son.

Mr. Erickson: Is that a corporation?

Mr. Funk: No, partnership.

Mr. Erickson: You are a partner of the firm.

Mr. Funk: That's right.

Mr. Erickson: Mr. Ronald Tallyn.

Mr. Tallyn: My name is Ronald E. Tallyn of Wenona Grain Company. I am a partner of that firm.

Mr. Erickson: Mr. Ed Herron.

Mr. Herron: I am Ed Herron, executive secretary of the Illinois Grain Dealers Association. I appear on behalf of the country grain elevator.

Mr. Erickson: I appear also for the Scott Grain Company, Dwight, Illinois; I. M. Funk & Sons, Grain Merchants, at Kenosha, Illinois; Wenona Grain Company, Wenona, Illinois; Grand Ridge Cooperative Grain & Supply Company of Grand Ridge, Illinois; and also for the Illinois Grain Dealers Association of Illinois.

I should like to call as my first witness Mr. James Scott of the Scott Grain Company.

Exam. Dahan: May I ask, are these witnesses all going to be called in order?

Mr. Erickson: Yes, sir.

Exam. Dahan: Will you have them all rise, and I will [fol. 555] swear them at this time.

(Witnesses sworn.)

JAMES SCOTT was sworn and testified as follows:

Direct examination.

By Mr. Erickson:

Q. Will you please give your name, address, and the position in your firm?

A. My name is James Scott. My address is Dwight, Illinois, and I am a partner in the firm known as Scott Grain Company of the same address.

Q. Will you please give your experience in the grain elevator business?

A. Approximately six years.

Q. How long has the Scott Grain Company been located at Dwight, Illinois?

A. The Scott Grain Company as it is now known has been located at Dwight, Illinois for approximately six years. However, this business has been there for about 80 years.

Q. Who was the prior owner and operator of this Scott Grain Company?

A. We acquired the ownership of this property from R. A. McClelland Elevator Company.

Q. How long was that party operating this facility?

A. This particular man operated this facility for about 40 years.

[fol. 556] Q. What sort of facilities do you have for handling of grain via rail?

A. We have all the necessary equipment, including the scale, elevator, elevator equipment, and bins, all permanently located on the Gulf, Mobile, & Ohio Railroad tracks.

Q. What is the capacity of your track?

A. Of our elevator, sir?

Q. Yes.

A. Approximately 25,000 bushels.

Q. What is the capacity in number of cars that may be placed on your side track at one time?

A. It is almost virtually unlimited, but we can handle ten cars easily.

Q. How many could you load in a day?

A. Four to six a day.

Q. Where is your nearest competitor located on the New York Central Railroad?

A. Our nearest competitor on the New York Central Railroad is about three-quarters of a mile from our location.

Q. In what town?

A. In Dwight, Illinois.

Q. Would you please indicate on the map on the wall there where Dwight, Illinois is located?

Is that a point at which the Gulf, Mobile & Ohio Railroad [fol. 557] intersects the New York Central Railroad?

A. It is.

Q. Is there interchange of traffic between the Gulf, Mobile & Ohio Railroad and the New York Central Railroad?

A. Yes, there is.

Q. Does your competitor at Dwight, Illinois have the use of New York Central track facilities for the loading of grain?

A. Yes.

Q. Can he also use the facilities of the GM&O Railroad Company?

A. Yes.

Q. Is this in the same or in separate facilities?

A. Different facilities.

Q. Under one ownership and management.

A. Under one ownership.

Q. Have you ever made an attempt to be served by the New York Central Railroad as well as the GM&O?

A. I have.

Q. Were you successful?

A. No.

Q. What general area has your elevator served in these past years prior to the establishment of a 5½ cent rate on the New York Central Railroad?

A. A radius of five to six miles.

[fol. 558] Q. Would that be all north or all south or generally in all directions?

A. Generally in all directions with some variation.

Q. How was the production of corn in your general area in the years 1955, 1956, and 1957 in general?

A. They are classified as very good years.

Q. Was 1957 as good as 1956?

A. 1957 was, I believe, better than 1956.

Q. Now, what is your volume of business that you have handled during the years 1955 and forward? Can you give that for the record?

A. 1956 annual volume, approximately 276,000; 1956, 252,000.

Q. Pardon me. I believe you misspoke yourself. Was the first figure 1955?

A. 1955, yes. 1956, 252,000; 1957, 31,000; and as of Friday night of this year, nothing.

Q. Is that all free corn, or is that also so-called CCC or government corn?

A. None of this corn ever belonged to the government.

Q. Now, did you handle any corn for the government?

A. I did.

Q. What volumes did you have, say, in 1956 and 1957 of government corn?

A. Shipped for the government in 1956, 27,000; 1957, [fol. 559] 87,000.

Q. All that you have spoken about relates to actual shipments that have been made during those periods, is that correct?

A. Yes, sir.

Q. I take it that you are aware of the publication of a 5½ cent rate on the New York Central from Dwight, Illinois to Kankakee, Illinois?

A. Very much so.

Q. Do you have any other competitive points on the New York Central Railroad than Dwight, Illinois?

A. Yes. We have competitors both to the east and to the west.

Q. Do you have a competitor at Sunbury, Illinois?

A. We do.

Q. Was there a period of time in which the New York Central 5½ cent rate was not effective in the year 1957?

A. There was a short period, yes.

Q. Were you able to do any business during that period of time?

A. Yes, we were.

Q. Were you able to do any business prior to that time in 1957 as indicated by your volume?

A. None other than that.

[fol. 560] Q. Can you give us any illustrations of a loss of business to the Sunbury elevator?

A. Yes. I can cite two examples.

Q. Will you give that to us for the record, please?

A. Grain loss to Sunbury elevator, I have one crib, we will call it the Hanson crib, which we bought in 1955-56, lost in 1957. Another crib known as the Peterson-Reever crib, bought in 1955-56, lost in 1957.

Q. Were you present at the prior hearing in this proceeding held last week?

A. No, sir.

Q. If I were to tell you that a witness for Sunbury testified that he did not injure any competitor, would you consider that to be a correct or an incorrect statement?

A. I would have to consider it an incorrect statement.

Q. I would like to ask a few questions about prices. How are prices determined from you? Do you get them by bids?

A. Yes, sir.

Q. Who do you get your bids from the river?

A. We receive bids from Cargill, Inc., Continental Grain Company, Norris Grain Company, and the Glidden Company.

Q. At what location are these elevators?

A. Morris and Seneca.

[fol. 561] Q. What is your distance to the river?

A. Approximately 20 miles, to Morris.

Q. And what is your truck cost to the river?

A. From our house to the river, on corn, 3 cents a bushel plus tax.

Q. Now, are bids also given for New York Central track delivery?

A. Yes, sir.

Q. When a bid is given for New York Central track delivery, does that mean delivered in the car ready for shipment?

A. They will pay that price for the corn loaded in the car ready for shipment, right.

Q. Now, when you deliver from your house to the river, is that price based on the truck—at the truck dump at the river?

A. We can quote a farmer either way.

Q. I am talking from your facility to the river now.

A. It would have to be quoted as of our station.

Q. At your station.

A. At our station, less our expense, trucking expense.

Q. Less your expense to the river.

A. Yes.

Q. When you get this truck to the river is the river price there quoted in that truck, or does it require some further [fol. 562] handling? When you empty that truck, is that the price of your grain?

A. That is right. It must be loaded in their elevator, dumped in their elevator.

Q. Now I am going to the matter that you were just approaching, and that is, how is the settlement made with the farmer, first on grain which is shipped through your elevator or handled by your house, thence to the river? Is it made by the river house to the farmer?

A. No, sir.

Q. How is settlement made by the river house?

A. Settlement is made to us.

Q. And do you in turn settle with the farmer?

A. We do.

Q. And what factors are taken into consideration in that settlement?

A. Our commission for handling the grain.

Q. Is the river price taken into consideration first?

A. Yes.

Q. Is the transportation to the river taken into consideration?

A. Yes.

Q. And then your commission.

A. Right.

Q. And if the matter is handled entirely through your [fol. 563] house, then the settlement is made by you to the farmer.

A. That is right.

Q. Now, do you have occasions in which grain is transported direct from the farm to the river?

A. We have, yes.

Q. Who indicates what river house that shall go to?

A. We do.

Q. Who bears the expense of transportation from the farm to the river?

A. The farmer must ultimately bear the expense.

Q. Is it sometimes done by way of deduction from invoice settlement to him?

A. Yes, sir.

Q. Is that invoice settlement to him much in the same manner you previously described, through you?

A. Very much so.

Q. Now, if the present rate situation remains as it is now and this relief is granted so as to make this a permanent rate structure, what will it mean to you?

A. That is ruination, you might say.

Q. Will you be able to continue in operation there?

A. We have an investment of about \$60,000 in this elevator property. It would be absolutely worthless.

Q. You have some other activities besides grain that are incidental, do you?

[fol. 564] A. Yes, sir; yes, we do.

Q. But the inability to handle this grain would cause you to cease operating there, is that correct?

A. I am afraid so.

Q. Did you pretest to the Interstate Commerce Commission about this situation?

A. I did.

Q. Now, Mr. Scott, do you have any objection to a carrier, rail carrier, meeting a competitive transportation?

A. None whatsoever.

Q. Do you object to their going below a level which you understand to be necessary to meet this competition?

A. Absolutely not.

Q. You do not object to them going below that level.

A. I do object to them going below that level.

Q. But you do not object to their meeting the level.

A. No.

Q. Would you say that the movement in your experience from—prior movement to river, then during this period of 5½ cent rate application to the New York Central, then back again to the river when that rate is lifted, indicates that the level of the rate—you are not a rate man, but as a charge—

Mr. Murphy: I am going to object to this as being an extremely leading question on direct examination. I don't [fol. 565] know who is testifying.

Mr. Erickson: I will reframe it, sir.

Mr. Murphy: All right.

By Mr. Erickson:

Q. Has it been your experience that upon the publication of the 5½ cent rate all the grain went to the New York Central Railroad in your territory?

A. Very definitely from our area, yes.

Q. I am talking now of corn.

A. Yes.

Q. Was it your experience that before that time you were able to handle grain equally with other elevators?

A. On an equal basis, yes.

Q. I am talking of corn now.

A. Yes.

Q. And was it your experience that during the period of injunction that you could handle corn again?

A. Yes, we did.

Q. And after that what was your experience with respect to the corn handling?

A. We have handled none.

Mr. Erickson: That will be all on direct. Tendered for cross.

Cross examination.

My Mr. Murphy:

Q. Mr. Scott, how far is your elevator from the line of the New York Central Railroad?

[fol. 566] A. About three-quarters of a mile.

Q. South or north?

A. South.

Q. You said you are approximately 20 miles to the river, is that correct?

A. That is right, yes.

Q. What percentage of your corn moved direct from the farms to the river houses?

A. I can't give an exact figure, but over half did.

Q. More than 50 per cent of your corn was trucked directly from the farm to river elevator without ever seeing your country elevator, is that correct?

A. Yes, it did.

Q. How much corn did you ship by rail during the year 1956? You indicated you had handled 252,000 of—

A. I believe virtually none of that went by rail.

Q. All of it went to the river.

A. Yes, sir.

Q. Across the New York Central—

A. Right across the railroad, except cases where it came from north.

Q. You were able to buy corn north of the New York Central in competition with elevators located between you and those farms, is that correct?

A. Will you read that?

[fol. 567] (Question read.)

The Witness: Yes, that is right.

By Mr. Murphy:

Q. How far north?

A. Well, to the north, three to four miles would about catch it, straight directly north.

Q. You indicated that you have been in business at Scott for about six years, is that correct?

A. Yes, sir.

Q. Were you in the grain business prior to that time?

A. Not to that time, no.

Q. Was Scott Grain Company in existence prior to that time?

A. No, sir.

Q. You indicated that the river bids—I am not sure of this, but can you tell me where you have to have the corn when you get on a river bid?

A. The river always bids f.o.b. their elevator on the river.

Q. Is that f.o.b. in truck at the elevator?

A. Yes, sir.

Exam. Dahan: May I interrupt with a question? Who unloads the truck?

The Witness: The river elevator will unload the truck.

By Mr. Murphy:

Q. Are you now storing government corn in your elevator?

[fol. 568] A. No, sir.

Q. Are you storing any government corn?

A. No.

Q. You testified that 1957 was a better corn production year than 1956. Do you mean the 1956 crop was better than the 1955 crop, or the crop that was harvested last winter?

A. I may have made an error on that. Possibly—this is just a guess on my part, from my area, the two years were very close to the same, but maybe 1956 had a slight more than 1957. We did have excessive rain in 1957. I believe I did get that turned around. But the significance of the two years as far as we were concerned should be about identical.

Q. You mean the corn grown during the year 1957 was a greater amount than the corn grown during the year 1956?

A. I don't believe it would be any greater, possibly just a little smaller. I explained that we did have a wet season in the year of 1957 that did reduce it some, but no great amount.

Q. In comparison between the years 1956 and 1955, can you give me that comparison?

A. Between 19—

Q. The corn grown between the year 1956 and the corn grown during the year 1955.

[fol. 569] A. 1956 was, I believe, a superior year to 1955.

Q. Do you own trucks of your own?

A. We do own trucks, but not so much for grain use.

Q. You don't own trucks for hauling grain to the river.

A. No, we do not have an ICC permit of any kind to haul any grain for hire.

Mr. Erickson: For clarification, may we refer to that as Illinois Commerce Commission, please?

By Mr. Murphy:

Q. Isn't it a fact that your operation at Scott has been primarily as a broker rather than as an elevator operator in that you buy the corn at the field and have it shipped to the river without bringing it into your elevator?

A. I never considered myself as a strict broker.

Q. Well, do you take the possession on the corn?

A. Please explain that.

Q. Do you acquire ownership of the corn when you buy from the farmer?

A. Yes, we are responsible for that corn as to any lines, yes. The river house is not responsible for that. It is our corn.

Q. Do you consider yourself in the nature of a merchandiser rather than an elevator operator?

A. No, sir, because we have to maintain an elevator, taxes, insure it, and everything. If we didn't have this [fol. 570] elevator and scale and warehousing facilities, we couldn't be in the grain business.

Q. You don't use that on over 50 per cent of your business.

A. We haven't, no.

Q. How much more than 50 per cent of your business would it be that moves direct between the farm and the river?

A. Well, I would just be guessing, but maybe it would run up to 75 per cent.

Mr. Murphy: Thank you. That is all.

Redirect examination.

By Mr. Erickson:

Q. What is the principal reason for the grain to move direct from the farm to the river rather than at or through your facility?

A. We are saddled with a truck situation here which costs an extra cent to handle it through our local facility. I will explain. To haul the corn direct from the farm to our elevator is 2 cents. That is the local truck rate. The

truck rate from our elevator to a river facility in Morris is 3 cents, total, 5. If we hauled directly from the farm to the river facility in Morris, the trucking charge is 4 cents.

Q. In that hauling you are hauling grain to which you have title.

A. Yes, sir.

[fol. 571] Q. And to which—and for which you are responsible for delivery.

A. Yes, sir.

Mr. Erickson: That is all on redirect.

Exam. Dahan: You are excused.

(Witness excused.)

Exam. Dahan: We will have a five-minute recess.

(Short recess.)

Exam. Dahan: Come to order, please.

I. M. FUNK was sworn and testified as follows:

Direct examination.

By Mr. Erickson:

Q. Mr. Funk, will you please give your name, your address, and your business experience.

A. My name is I. M. Funk, Kernan, 37 years in the grain business.

Q. What is your business address, Kernan, Illinois?

A. Kernan, Illinois.

Q. What is your position with the firm?

A. I am senior partner.

Q. How long has this elevator been at your location?

A. My father started it 60 years ago.

Q. Would you please take this crayon and indicate on the map the location of your facility. On what railroad is that located?

[fol. 572] A. Santa Fe.

Q. What is your nearest river point?

A. Nearest river point is Seneca.

Q. What is the truck charge to that point?

A. 2¾ cents.

Q. What is your nearest New York Central competitive point?

A. Missal.

Q. Have you a statement that you can offer for the record concerning the movement of corn by your firm for the years 1953 to 1957 inclusive?

A. Yes, sir.

Q. Separated as between free corn and government corn?

A. Yes, sir.

Q. Will you first please give us the free corn movement by rail and by river.

A. 1953—do you want the total?

Q. Total, yes.

A. The total was 128,730 bushels. Of that, by rail, 4,078 bushels; by river, 124,652 bushels.

In 1954 the total was 131,883 bushels; by rail, 106,880 bushels; by river, 25,603 bushels.

In 1955, the total was 155,115 bushels; by rail, 132,282 bushels; by river, 22,833 bushels.

In 1956, the total was 183,782 bushels; by rail, 155,918 [fol. 573] bushels; by river, 27,864 bushels.

In 1957, the total, 128,918 bushels; by rail, 74,626 bushels; by river, 54,292 bushels.

Q. That is a total of your nongovernment or free corn, is it not?

A. That is right.

Q. What did you have in government corn?

A. In government corn, 1953, nothing; 1954, nothing; 1955, 70,162; 1956, 8,422; 1957, 59,866.

Q. Going back to your 1957 figure of river shipments of 54,292, can you tell us how much of that occurred during the period of time that there was an injunction against the 5½ cent New York Central rate?

A. I would say in the neighborhood of 40,000 bushel. I don't have a definite statement of that.

Q. Now going to your rail shipments in 1957 of 74,626, will you please explain how that was forwarded? Did it go out Santa Fe?

A. Not all of it.

Q. How did you handle it other than Santa Fe if you are only located on the Santa Fe?

A. By arrangement with the elevator at Missal, we loaded through that elevator on cars for our own account the total of 42,269 bushels.

Q. Of that 42,269 bushels, which as I compute it, approximately 57 per cent of the total by rail, did you have to bear the expense of the handling of that through the New York Central elevator?

A. Yes.

Q. Why is that?

A. Our customers could have sold that corn to either us or the elevator at Missal, and by arrangements whereby we paid a little over half of our commission to the Missal elevator, we loaded that much corn through that elevator for shipments.

Q. Do you think you could make such arrangement as a permanent thing?

A. We can't continue in business with that kind of arrangement, no.

Q. What was the purpose of handling this grain then during this period of time?

A. There was only one purpose, and that was to try to hold our customers that had been with us for years.

Q. Have you any recent prices on the New York Central Railroad versus the river the last day or so?

A. Yes, sir.

Q. Would you give them to us for the record?

A. You want the last two days?

Q. By dates, please.

A. Pardon?

[fol. 575] Q. Give us the dates and what the price bids were.

A. Well, starting on the 27th of January, the bid to me, loaded New York Central, was \$1.0925. The bid delivered to the river by truck was \$1.09. The bid loaded cars Santa Fe was \$1.04⁵/₈.

Q. Give us the most recent one that you have?

A. On the 31st of January, the New York Central bid \$1.09, the river bid \$1.075, the Santa Fe bid, \$1.04⁷/₈.

Q. With that kind of a price bid picture which bidding point would draw the corn?

A. Well, it would be the New York Central.

Q. Would it—it would be the New York Central.

A. Yes.

Q. Were you here when Mr. Scott testified with respect to pricing and how prices are made?

A. I was.

Q. If questions were put to you along that general line, would your answers be about the same?

A. They would.

Mr. Erickson: Is there any question in your mind, Mr. Murphy?

Mr. Murphy: Yes. I don't recall all of Mr. Scott's answers or questions as of this time.

Mr. Erickson: Would you care to have me put that—

Mr. Murphy: You might as well.

[fol. 576] By Mr. Erickson:

Q. Mr. Funk, from whom do you get your price bids?

A. I get them from Glidden Company and Continental at Seneca, Cargill Grain Company at Ottawa.

Q. From whom do you get your New York Central price bids?

A. From Payne Stottler Grain Company at Kankakee.

Q. And on the basis of those bids you then determine what you can pay at the elevator for the farmers' grain, is that correct?

A. That's right.

Q. With respect to the settlement, you settle with the farmer, do you, on anything delivered at the river?

A. Yes, sir.

Q. As well as anything handled for you by the New York Central?

A. Yes.

Q. If anything is handled on the New York Central, is it made in your name?

A. Yes.

Q. On your bill of lading?

A. That's right.

Mr. Erickson; That is all I will have on direct. Maybe there are some others here.

Cross examination.

By Mr. Murphy:

Q. During the time the New York Central's rate was [fol. 577] enjoined in the Federal Court what was the relationship of river bids to Santa Fe bids?

A. River bids were somewhat more favorable during that period than the Santa Fe bids.

Q. Let us take back in 1956 then. Can you tell me how the river bids and the Santa Fe bids were at that time?

A. The Santa Fe bids were better than the river, as evidenced by my shipments. I can't quote you those bids. I can't tell you the bids during 1956, but as evidenced by my shipments, the Santa Fe, I assume, were better.

Q. Has that generally been true for a number of years?

A. When the Santa Fe made that rate—I think it is 18 cents—it put us on a better footing to ship by rail than it did by water.

Q. When did that rate become effective?

A. I can't quote the date—within the last three years.

Q. The river bids have come up in relationship to the Santa Fe bids since the New York Central rate has been in effect.

A. It would appear that way.

Q. What area do you buy corn in, Mr. Funk?

A. I beg your pardon.

Q. What is the area from which you draw corn?

[fol. 578] A. Well, we get an area of three to four miles, possibly four and a half, north and northeast and northwest of us. South of us it is only a mile and a half, which is theoretically halfway to the New York Central. We are three miles from the New York Central, so theoretically our territory would be a mile and a half.

Q. Do you ever truck corn directly to the river without elevating it through your elevator?

A. We have done that, yes.

Q. Right from the farm to the river.

A. That's right.

Q. Would your trucking costs or charges from the southernmost area from which you draw be different than the charges from the northernmost area that you draw to the river?

A. You mean direct from the farm to the river.

Q. Yes.

A. Yes, because the river is north of us, and the longer the haul, the higher the rate.

Q. The trucking charges are not a fixed amount, they vary with the distance from the river.

A. They vary more or less with the distance, yes.

Q. How far is your elevator from the river, sir?

A. We are 18 and a fraction miles from Seneca.

Q. Can you tell me where the corn that you bought, the [fol. 579] preponderance of the corn that you bought in 1956, moved, the rail tonnage, that is?

A. Where it moved?

Q. Yes. Did that move east or did it move south?

A. Our rail shipments on the Santa Fe have always been east with very few exceptions.

Q. To Chicago?

A. To Chicago.

Mr. Murphy: That is all I have.

Exam. Dahan: Redirect.

By Mr. Chartrand:

Q. Prior to the establishment of this 5½ cent rate, about what per cent of your business did go to the river? Is it reflected in the figures given for the years 1953 to 1957?

A. Well, not on a percentage basis. I have the bushels by rail and by river.

Q. I see. Now, in so far as your competitors are concerned, let's say, at Streator, Missal, Richards, were you all in a similar competitive position—

Mr. Murphy: I am going to object if we are going to ask questions on redirect that attempt to encompass the whole direct case. I don't know that this is directed to any of my cross examination, your Honor.

Mr. Erickson: It is my understanding we are still on cross, Mr. Murphy.

[fol. 580] Mr. Chartrand: Yes. You are the first cross and Mr. Hayes has deferred, and I am getting down to my cross now.

Mr. Murphy: You don't consider this an adverse witness, do you?

Mr. Chartrand: He is not my witness.

Mr. Murphy: I ask for a ruling on this as to whether after my cross examination parties who are protesting are going to be permitted to come in and ask what they allege or purport to be cross examination and cover the whole direct, for the obvious purpose of establishing the same points that the direct questioner has attempted to establish.

Exam. Dahan: I will permit it this time, but in the future we will have all those on the one side ask their questions at one time before we get to the other side.

By Mr. Chartrand:

Q. Of the grain that was handled through the Missal elevator, did it come out of your elevator at Kernan or was it trucked direct from the country?

A. It was handled both ways.

Q. Most through your elevator or most direct?

A. I would say a little more direct than through my elevator.

Mr. Chartrand: All right, thank you.

[fol. 581] Exam. Dahan: You are excused.

(Witness excused.)

Mr. Erickson: I call Mr. Antram.

B. C. ANTRAM was sworn and testified as follows:

Direct examination.

By Mr. Erickson:

Q. Will you please give your name, your address, and your business location.

A. My name is B. C. Antram. My business location is Grand Ridge, Illinois, address the same.

Q. What are your duties at the Grand Ridge Cooperative Grain & Supply Company?

A. I am manager.

Q. How long have you been connected with the Grand Ridge Cooperative Grain & Supply Company?

A. I have worked for the Grand Ridge Cooperative Grain & Supply Company for 12 years. I have been manager for the last four years.

Q. Do you have prior experience in elevator operation?

A. Well, when I was a young boy I worked at this same place for a couple of years, but up until then I never had experience, only just since I have been back there.

Q. Can you indicate for the record, stating and also pointing to the location of your facility.

Now, is Grand Ridge, Illinois located at about a mid-[fol. 582] point between the New York Central Railroad and the river?

A. We are located eight miles from the river and eight miles from Streator, and the New York Central goes through Streator.

Q. And what town on the river are you referring to when you say you are located eight miles from the river?

A. Ottawa, Illinois.

Q. In the course of your experience of handling grain purchases and sales and elevation at Grand Ridge, were you able to compete with other elevators in the general area which you reach?

A. We have, yes.

Q. How extensive is that general area that you reach prior to the 5½ cent rate?

A. Well, I would say we would go three miles south of Grand Ridge; we go further west than we do—we go about five miles west, and we go about six miles east of Grand Ridge, and we go—we have some customers that are within a mile of Ottawa, but our general customers, I would say four miles north of Grand Ridge.

Q. Do you have any competitors reaching the same territory?

A. There are competitors from the north, from Ottawa.

Q. From Ottawa.

[fol. 583] A. And Mr. Freeman that sets at Richards Crossing, which is four miles south of us.

Q. When this 51½ cent rate was established on the New York Central to Kankakee, Illinois, did you notice any effect upon your operations?

A. Why, yes, I noticed some effect. The farmers would come in and tell me about how much they could get to a certain place, and that is the effect it had on me.

Q. What have you been able to do to retain and meet this business.

A. I have figured, done a lot of figuring, and I could never figure out where I could ever meet it, so I just had to let them go wherever they wished, that's all.

Q. Have you lost business to other parties as a result of this New York Central 51½ cent rate that you know of?

A. Well, I know of some customers that went the other way. They always did used to deal with us, but then that is just one of those things, you don't know. They was always dealing with us until that came into effect, and then another man got them.

Q. I am going to ask just a few questions on pricing. Where do you get your bids from?

A. I get my rail bids from Payne Stottler at Kankakee.

Q. Where do you get your river bids from?

A. From Glidden at Seneca, I get river bids from Con-
[fol. 584] timental at Seneca, I get river bids from Norris Grain Company at Ottawa, Illinois, and Cargill at Ottawa, Illinois.

Q. This matter of bids, is that a matter of pretty general public knowledge?

A. That's right.

Q. And everybody in the area knows what the other party is bidding, do they not?

A. That is correct.

Q. In fact, do they use some kind of an information service to convey this information to each other?

A. Well, now, you mean as far as the river calling the different grain—

Q. We will take that first.

A. The river calls all the grain dealers, if they are any kind of customer at all, if they sell them anything at all, the river always calls them and tell them what they are bidding.

Q. Now let us go to the rail, New York Central rail, how does that obtain?

A. The New York Central rail rate in our locality is obtained through our elevator, the other elevators call us to see what Payne Stottler Grain Company is bidding by New York Central.

Q. In other words, then, you convey to other parties [fol. 585] information concerning the New York Central bids?

A. That is correct.

Q. So you are thoroughly familiar with what the bids are from day to day.

A. That's right.

Q. Did a Mr. Erickson from the Chicago Board of Trade call upon you to check the records with respect to bids over an extensive period of time?

A. He did.

Q. Am I that Mr. Erickson?

A. You are.

Q. So that the bids that were recorded are those which have been offered by various parties either at the river or at the New York Central rail point.

A. That's right.

Q. Do you have any opposition to a railroad meeting its competition?

A. I don't have any opposition to a railroad meeting its competition as long as it is fair competition and not destructive competition.

Q. Have you ever heard of—pardon me. Go ahead.

A. I was going to say—

Mr. Murphy: I think his answer was responsive and complete.

By Mr. Erickson:

Q. Have you ever heard of industries, grain elevators, [fol. 586] not located on the New York Central using mechanical loading devices on the New York Central?

Mr. Murphy: Objection as hearsay.

By Mr. Erickson:

Q. Do you know of elevators using mechanical loading devices?

Mr. Murphy: I continue the objection, in that there is no way of indicating that he has a basis for having such a knowledge. You ask a question like that and get a hearsay answer in the record, and it is improper.

By Mr. Erickson:

Q. Are you familiar with the means of loading grain cars on the New York Central Railroad?

A. I am.

Mr. Murphy: Can you qualify him for that, Mr. Erickson, before you pursue your question?

By Mr. Erickson:

Q. How do you know of grain being loaded on the New York Central?

A. The man that I think you are asking me about—

Mr. Murphy: Well, now—

By Mr. Erickson:

Q. Do you have personal knowledge of it being loaded there?

A. I have this knowledge, that—

Mr. Murphy: If he is going to answer the question—

By Mr. Murphy:

Q. Just answer the question. Do you have personal knowledge of grain being loaded on the New York Central Railroad.

[fol. 587] A. I have this knowledge, that the man calls me and wants to know where to bill these cars to on the New York Central.

Q. Do you know whether that man has an elevator facility at that place?

A. He has no elevator on the New York Central.

Q. Do you know whether he possesses and uses a grain loading device that is portable in nature?

A. Yes.

Q. Does he use it?

A. He does.

Q. Where is that located?

A. It is located in Streator, Illinois.

Q. Located at Streator, Illinois.

Mr. Erickson: I think that will be all on direct.

Exam. Dahan: Mr. Chartrand, do you have any questions?

Mr. Chartrand: No questions.

Exam. Dahan: Mr. Murphy.

Cross examination.

By Mr. Murphy:

Q. Is this gentleman to whom you referred Mr. Ike Barrett?

A. That is who the man is.

Q. Does Mr. Barrett have facilities on the New York Central, corn storage facilities and other facilities on the [fol. 588] New York Central?

A. I couldn't—I know he has corn facilities in Streator for government corn.

Q. Yes. Has he got a scales there?

A. There is a scales there, too.

Q. That is not something new, is it?

A. That was put there—well, I wouldn't swear to the date, but I think it is two or three years ago, something like that.

Q. Thank you. Mr. Antram, you indicated that some farmers said they could get better bids elsewhere. Can you tell me what portion of the area you serve where these farmers are located?

A. They are located right on the south side of my territory because the New York Central is south of me, see, and it is on the south edge of my territory.

Q. Are any farmers located in the north or the northwest portion of your area that ever so indicated to you?

A. None that I ever know of. They talk about it, but they have never talked about going that way.

Q. Do you move corn direct from the farm to the river elevator?

A. Does our elevator? You mean direct to the river?

Q. Yes.

A. The farmer delivers it direct from the farm to the [fol. 589] river, and we move corn direct from the elevator to the river, too. Is that what you mean?

Q. I just wanted to know whether or not the corn sold on the river bids moves from the farm to the river elevator without going through your country elevator.

A. Some of it does, yes.

Q. What proportion of it?

A. Well, I don't have any figures like that. I couldn't tell you exactly. I would say we used to always figure that 50 per cent of the corn that we handled goes river-wise because—

Q. Without going through your elevator.

A. That's right, because there is a certain amount of them farmers that just live within two or three miles of the river or four miles, and they are lots closer to them than they are to us.

Q. Mr. Antram, unlike the other two witnesses that have preceded you, the last two witnesses that have preceded you, you haven't given us any statistics as to business of 1957 versus preceding years. Do you have those figures with you?

A. I have them— Mr. Erickson there. I give them all to Mr. Erickson there if you want to see them.

Mr. Erickson: I am sorry. I didn't know he didn't have a copy.

[fol. 590] The Witness: I didn't have any copies at all.

By Mr. Murphy:

Q. Was your business in 1957 as good as it was in 1956?

A. No, sir.

Q. How many bushels did you handle in 1957?

A. These are figures that are up in my mind, and I will give them to you—

Q. You don't have them on that paper there?

Mr. Erickson: I am sorry. I gave you the wrong one.

The Witness: I don't have the right paper.

1,695,000 bushels last year. That is 1957.

By Mr. Murphy:

Q. What was that again?

A. In 1957, on corn, we handled 1,179,398 bushels. In 1956 we handled 1,129,997 bushels of corn. In 1955 we handled 1,046,072 bushels of corn. That isn't any corn that has anything to do with CCC. This is just corn that we have bought ourselves.

Q. Do you handle any CCC corn?

A. We handle some.

Q. Do you have the figures on that?

A. Not right here, no. I can tell you how much CCC corn we handled last year because I can remember.

Q. Can you tell me how much of the 1,179,000 bushels of corn that you handled in 1957 moved by rail?

[fol. 591] A. Seventy-eight cars.

Q. And that would be approximately how many bushels?

A. Figure 1800 bushel to a car. Some of them don't hold that much and some of them hold 2,000, but you can figure—just average it out. In 1956 we shipped 258 cars by rail. In 1955, if you wish it, we shipped 208 cars by rail.

Mr. Murphy: Thank you. That is all on cross.

Exam. Dahan: Do you have any redirect, Mr. Erickson?
 Mr. Murphy: There is one question for clarification, if I may ask before you start.

Exam. Dahan: Very well.

Mr. Murphy: How much of this 78 cars that moved in 1957 was CCC corn?

The Witness: None.

Mr. Erickson: Counsel, he stated all of the figures he gave was not CCC.

Mr. Murphy: He was giving tonnage figures then. The 258 and the 208 cars in 1956 and 1955 were likewise all free corn?

The Witness: No government corn in any figures I have given you at all.

Exam. Dahan: Any redirect?

Mr. Erickson: No.

Exam. Dahan: You are excused.

[fol. 592] (Witness excused.)

Exam. Dahan: Next witness.

Mr. Erickson: Mr. Tallyn.

RONALD E. TALLYN was sworn and testified as follows:

Direct examination.

By Mr. Erickson:

Q. Will you please give your name, address, business location?

A. My name is Ronald E. Tallyn. I am with the Wenona Grain Company at Wenona, Illinois.

Q. What is your position with that firm?

A. I am manager and also a partner in the firm.

Q. What is the capacity of that elevator?

A. 335,000 bushels.

Q. How long has that elevator been at that location?

A. Well, we have three elevators, we have two old wooden houses that have been there for 50 years probably, and a concrete house—a new concrete house that has been there for seven years.

Q. Would you please identify on the map and for the record the location of your facility?

A. The intersection of the New York Central and the GM&O Railroad.

Q. It is located at the intersection of the Illinois Central and the GM&O Railroad at a point lying south of the New [fol. 593] York Central Railroad.

A. About 4½ miles.

Q. What is the point of your nearest New York Central competition?

A. That is the four and a half miles, Lostant, Illinois.

Q. What is the distance to the Illinois River?

A. It varies from 20 to 24 miles. We are available to three or four different locations.

Q. What would it be to, say, Spring Valley, Illinois?

A. About 24 miles.

Q. What is the truck charge to that point?

A. You are speaking of corn.

Q. Corn.

A. Two and one-half cents per bushel.

Q. Did you prepare a record of your figures of movement for certain periods of time?

A. Yes, I did.

Q. Do you have that for the record?

A. I have. For 1955 corn purchased, 214,535 bushels.

Q. May I stop you for a moment, Mr. Witness. Would you advise us whether that is for the calendar year 1954-55 or is it for some other period?

A. This is the 1954-55 fiscal year ending June 30.

Q. All right. Now continue.

A. For 1955-56 fiscal year we purchased 270,189 bushels. [fol. 594] During 1956-57 fiscal year we purchased 294,347 bushels.

Q. Are we now talking altogether about free corn?

A. That is corn purchased.

Q. Corn purchased. Would you give us the CCC corn figures you may have.

A. During the 1954-55 fiscal year, 261,678 bushels; during 1955-56, 350,159 bushels; and during 1956-57 fiscal year, 244,678 bushels.

Q. If I would understand your free corn figures correctly, you shipped more free corn in the fiscal year 1956-57 than you did in the preceding year.

A. That is correct.

Q. Have you been hurt by this 5½ cent rate adjustment that has been put into effect by the New York Central Railroad?

A. We haven't from the standpoint of bushels handled, but we figured that this was a temporary condition which would be remedied, and in order to hold our old-time customers, of which I have had the experience to find out that if you lose one, he is practically gone for a year or two—we have met these New York Central bids at a cost of around \$1800 last year, during 1957.

Q. Has that been a cost which you have had to stand as the Wenona Grain Company?

A. Definitely; that is correct. I might add that—if it is [fol. 595] permissible—

Q. Go right ahead.

A. We have had a high percentage of government compliance with corn which has left a smaller amount of free corn available, and this year it is the reverse, so that if this condition continues, it is going to hurt us more in proportion.

Q. Now, Mr. Tallyn, you heard the statements of the prior witnesses concerning how prices were obtained and so forth. If the same questions were put to you, would your answers be substantially the same?

A. They would.

Mr. Erickson: I will tender the witness. More direct, anyone else?

Mr. Hayes: No.

Mr. Erickson: I tender the witness for cross.

Cross examination.

By Mr. Murphy:

Q. I understand you felt you were injured in the amount of \$1800 on tonnage of 294,000 bushels—I mean on a volume of 294,000 bushels?

A. Not exactly that because while that restraining order was in effect, it didn't affect us. We weren't forced to bid up during that period.

Q. This is the 1956-1957 fiscal period, is that correct?

A. That's right.

[fol. 596] Q. The restraining order was—

A. That's right, that was in August of 1957, correct?

Q. Is Spring Valley your principal port?

A. You mean on the river?

Q. Yes.

A. Lacon, Henry, Spring Valley, or LaSalle. We are about the same distance, within a few miles of any of the four points.

Q. You are running into competition from outlet via the New York Central versus outlet Lacon, Henry, and Hennepin, is that correct?

A. And also our other rail connections.

Q. How much of the 270,000 bushels of corn that you handled during the 1955-56 fiscal year moved by rail?

A. I don't have the figures exactly. I would say from 50 to 60,000 bushels.

Q. Fifty to 60,000 bushels by rail?

A. Right.

Q. Was that all free corn, or was that—

A. That was all free corn, yes. Practically all the government corn was—

Q. You mean approximately 50,000 out of the 270,000—

A. Right.

Q. —moved by rail.

A. That's right.

[fol. 597] Q. All of the balance of the free corn moved to the river, is that correct?

A. Yes.

Q. When that moved to the river, did it cross the New York Central Railroad?

A. Except what went to Lacon or to Henry did. Spring Valley and LaSalle, we have to cross the New York Central. Going to Lacon or Henry, we don't.

Q. What are your truck charges to the river again?

A. Two and one-half cents per bushel on corn.

Q. For the 24 miles, is that correct?

A. Right.

Q. Are you in the trucking business yourself?

A. Not at all.

Q. That is for hire transportation.

A. That's correct.

Q. Do you ever move any of this corn directly from the farm to the river?

A. Yes.

Q. What percentage of the corn that moves to the river moves direct from the farm without going through your elevator?

A. About 1 per cent.

Q. About 1 per cent.

A. Correct.

[fol. 598] Q. Can you give me the figures, breakdown of how much of the 294,000 bushels of corn, free corn, that is, that you handled during the 1956-57 period and tell me what proportion of that went to the river?

A. Oh, roughly 200, 220,000.

Q. Did all of that corn move to Chicago that moved by rail?

A. No, different locations.

Q. Did it move south?

A. Some went to Peoria, some to—

Mr. Chartrand: I object, Mr. Examiner. He hasn't been qualified to know what the subsequent movement of corn is up or down the river.

Mr. Murphy: I am talking about his rail movement, sir, and he has billing on that.

Mr. Chartrand: I beg your pardon.

The Witness: Some moved to Peoria, and I don't remember if any went to Decatur in that particular year or not, but we occasionally ship to Decatur.

By Mr. Murphy:

Q. Then the preponderance of the rail movement does not go to Chicago, is that correct?

A. Other than CCC, no.

Q. You indicated there was a higher compliance with the price support program during 1957, is that my understanding—

[fol. 599] A. During 1956 than there was during 1957.

Q. Are you speaking of the 1956 crop year?

A. 1956 crop year, yes; more farmers complied with the acreage reduction in 1956 than they did in 1957.

Q. How about the corn going into storage, is that related to the price support program also?

A. You mean government corn going into storage?

Q. Yes. Was there a greater volume going into storage of the 1956 crop than of the 1955 crop?

A. That of the 1955?

Q. Yes.

A. Well, in our own location it didn't vary very much. Our storage facilities have been filled each year, and I would say there is not enough difference to quibble about.

Q. So far as you know, you don't know of any variations?

A. No. It was very minor.

Mr. Murphy: Thank you. That is all I have.

Redirect examination.

By Mr. Erickson:

Q. How much of this grain which moved to the river moved while the restraining order was in effect?

A. I didn't bring those figures with me, Mr. Erickson.

Q. You don't know whether it was substantial or not?

A. During that period it was slight. I remember that.

[fol. 600] Mr. Erickson: That is all.

Exam. Dahan: You are excused.

(Witness excused.)

Exam. Dahan: Call your next witness.

Mr. Erickson: Mr. Ed Herron, please.

Mr. Herron has a prepared statement which will be distributed to all parties. He appears here in behalf of the Illinois Grain Dealers Association.

Direct examination.

By Mr. Erickson:

Q. Please give your name, address, business connection.

A. My name is E. S. Herron, and I am executive secretary of the Illinois Grain Dealer's Association, a trade association representing members who own and operate elevators at more than 400 different stations in the state. We have members who are located on the New York Central; some who are located on roads that bisect the New York Central; and others who are on lines that compete in the same general area.

Q. Are you here, Mr. Herron, at the direction of your association following a resolution?

A. I am.

Q. Will you continue with your statement, please?

A. At our annual meeting in May of last year, one of the resolutions adopted was that the association, through its [fol. 691] secretary, should use its best efforts to see that obvious grain rate inequities should be corrected and restored to the normal pattern as between stations and railroads.

I want to make it clear that I am not here in behalf of, nor for any organized grain market, nor for any railroad. I am here in behalf of the numerous country grain dealers who have suffered monetary losses by reason of an unequal grain rate in their territory.

Mr. Murphy: I am going to object to this witness testifying about the situation of some people who are not present here. I ask that that be stricken.

Mr. Erickson: If the examiner please, this man is executive secretary of the association and is familiar with the matter on which he speaks.

Mr. Murphy: Well, I am going to object to it, unless he is going to particularize in regard to the monetary losses caused to numerous country grain operators. If he is going to list each one of them and tell us the amount of the loss and those factors, that is all right, but if it is going to be a general statement like this, I object to it going into the record. Is he prepared to do that?

Mr. Erickson: On what grounds are you objecting when [fol. 602] he has stated he is proceeding on the basis of resolution offered and adopted by the association?

Exam. Dahan: I will strike that sentence out. That last sentence will be stricken.

You may continue.

The Witness: This rate has caused grain dealers on competing rails to bid or pay an unwarranted price for grain which normally and historically came to their stations. This has caused grain to be marketed and delivered to terminal position in an entirely abnormal pattern.

The very history of the country elevator trade and the construction of these elevators, some of which are more than 50 years old, was built upon the premise that they would be able to compete with one another on equal grain rates—both on-line and off-line railroads. To find oneself suddenly at a disadvantage against other points who are enjoying a lower transportation cost does not seem to me the intent and purpose of our historical equalized rate structure—nor would it seem to me that there is any logical foundation for the establishment of such a rate, either permanent or temporary.

Mr. Murphy: Your Honor, I am going to object to him telling about what some other people are being forced to do, and I move that the sentence up to the semicolon are [fol. 603] stricken.

Exam. Dahan: I haven't read it yet.

Mr. Erickson: Mr. Examiner, if you please, if you care to elaborate this point, counsel, I will establish the fact that he has personally been with these various people of whom he speaks and has personal knowledge of the fact that they have losses.

Mr. Murphy: Well, I have no opportunity to cross examine on some conversations that may have taken place somewhere. I object to that as being hearsay, your Honor.

Exam. Dahan: We can't strike it until he reads it into the record. Read it.

By Mr. Erickson:

Q. Mr. Herron, have you seen any of the facilities here of which you speak?

A. Yes, sir.

Q. Were you with Mr. Erickson when he made a tour of various facilities throughout this territory and personally inspected the records of some of these firms?

A. I was.

Q. Are your statements here predicated upon that which you saw at that time?

A. It is.

Q. Go ahead.

A. Country grain dealers competing in this situation are [fol. 604] being forced to use other forms of transportation and rent temporary or semi-permanent facilities as a matter of defense.

Mr. Murphy: Your Honor, I object to the sentence starting with "Country elevators" and up to the point the witness has just concluded.

Exam. Dahan: It may be stricken.

Mr. Erickson: If the examiner please, the witness just qualified himself as having seen the records of various firms, handling grain in the manner here described. He has personally seen the facilities of which he speaks.

Exam. Dahan: I think those country grain dealers are here, and let them speak for themselves.

Mr. Erickson: They are not all here.

Exam. Dahan: We don't have to have cumulative evidence to have all, as long as we have some. If he is speaking for the country grain elevators, and his testimony be nothing more than cumulative, there would be no necessity for receiving it, if they are going to be here, so I am striking that from the record.

The Witness: It is their hope and the hope of our association that the rails and this commission so adjust the grain rates that we are again in a "fair competitive position."

[fol. 605]

By Mr. Erickson:

Q. Does that conclude your statement?

A. That concludes my statement.

Q. How many members are there in your association?

A. We have something over 300, and we operate about 400 country stations throughout the state.

Mr. Erickson: Tendered for cross.

Mr. Hayes: Mr. Examiner, you have ruled on this, but obviously we can't bring in 400 country elevator operators.

Exam. Dahan: Of course we don't want to receive the evidence of 400 country grain elevators. It would be nothing more than cumulative, so it wouldn't make any difference.

Mr. Chartrand: Mr. Examiner, I would like ask Mr. Herron a further question with regard to why he is here.

By Mr. Chartrand:

Q. Does this organization to which you belong have a transportation committee?

A. We do.

Q. For the consideration of transportation matters.

A. We do.

Q. Is that committee duly appointed or elected by the membership?

A. It is appointed by the president.

[fol. 606]- Q. Did that committee consider the subject here under discussion today?

A. They did.

Q. And did their consideration or conclusion with regard to that result in instructions to you to appear here for the purpose of expressing their views?

A. Right.

Q. Does this statement reflect their views?

A. It does.

Cross examination.

By Mr. Murphy:

Q. You referred to the fact that the effect of the New York Central rate has caused grain dealers and competing rails to bid or pay an unwarranted price for grain. Do you mean a higher price for grain, for corn?

A. Yes, that's right, in order get it.

Q. In order to get it. Because the competition was there, the higher prices were paid to farmers to get the grain. Thank you.

You indicated many of the country elevators were constructed 50 years or more ago.

A. That's right.

Q. At that time how did the corn that moved through those country elevators move to market?

A. I think historically most all of it moved through the [fol. 607] houses into boxcars and marketed.

Q. Historically you had a rail movement of all the surplus grain from this area out of the area.

Has there been a change in that situation?

A. Yes.

Q. What has been the big change?

A. The river has entered into the marketing of the corn.

Q. Has that caused diversion of the corn from the rails to the river?

A. Yes.

Q. To any great extent?

A. I would say yes.

Q. You would say yes?

Taking an elevator near the river as compared with one, say, south of the New York Central, does that change the relative position of those two elevators?

A. Elevator south of the New York Central and one north of the New York Central, you say?

Q. Take an elevator that would be right near the Illinois River, within a mile of the river, located on a rail, and take an elevator that would be—take an elevator at Rutland, for example, which would be substantially south of the New York Central. Now, prior to the time that the barges came in those elevators were, I assume in your un-[fol. 608] derstanding, fairly and competitively aligned in so far as rates are concerned.

A. That's right.

Q. Well, now, when the barge line came in, did that change the competitive situation of those two elevators?

A. I expect the house that was located north of the river—I mean, the New York Central—probably most of their grain went to the river.

Q. I mean, did they have any advantage over the elevator that was at Rutland?

A. They probably had a transportation advantage.

Q. That was a change that occurred when the river—

A. Yes, became—

Q. Became a factor. Did your organization take any position at the time those competitive relationships were disrupted?

A. Before I became secretary, the association worked with the railroads, as I am told, in establishing our lake local rates. I think that was—that is a guess on my part, but I think it was in the late 1930s.

Q. Are all the elevators that are members of your association in agreement with the position that you stated here today?

A. They did not do any objecting at our convention when this resolution was passed.

[fol. 609] Q. How was it passed, by voice vote or by ballot?

A. By voice vote.

Q. Do you know whether there were any negative votes?

A. Not that I recall.

Q. You don't know whether there were.

A. I don't recall any, and I was there.

Mr. Murphy: That is all I have.

Mr. Erickson: That will be all.

Mr. Hayes: Just a minute. I would like to ask a question.

By Mr. Hayes:

Q. Mr. Murphy was asking you about 50 years ago and the late 1930s. Do you recall his line of questioning?

A. I think I can pick it up.

Q. At the time when river transportation was established you indicated to him that a larger amount of grain—not a larger amount, but some grain—began to move by water. Do you recall that? Was that due to the lower basis of water rates as compared to rail rates in principal part?

A. In principal part, yes.

Q. Has that relationship, lower basis of water rates than rail rates, continued since 1933 or 1934 or 1935 or so?

A. To the best of my knowledge it has.

[fol. 610] Q. Until this 5½ cent rate came in.

A. Right.

Mr. Hayes: That is all.

Exam. Dahan: You are excused.

(Witness excused.)

Mr. Erickson: If the examiner please, there are three other men who have come from downstate and desire to make a brief statement. In view of the nature of the evidence given it seems that a brief statement will suffice for each one rather than to go through all of this, and I would like to call Mr. Francis McGowan from Blackstone, Illinois.

(Witness sworn.)

FRANCIS J. MCGOWAN WAS SWORN AND TESTIFIED AS FOLLOWS:

Direct examination.

Q

By Mr. Erickson:

Q. Will you please give your name, address, business location?

A. Francis J. McGowan, Blackstone, Illinois, manager of the Blackstone Farmers Grain Company.

Q. What is your position with that firm?

A. Manager.

Q. What is the nature of the firm? Is it a partnership or—

A. No, sir, stock ownership.

[fol. 611] Q. How long have you been manager of that firm?

A. Two years.

Q. Have you had prior experience in elevator operation and management?

A. No, sir.

Q. In the two years you have been operating that elevator have you had occasion to notice any change in the

flow of your traffic from its previous direction to some other direction?

A. Yes, sir.

Q. Will you please tell us what that is?

A. Well, it has been going to the New York Central.

Q. Are you able to ship it on the New York Central?

A. No, sir.

Q. Do you have any facilities by which you can ship on the New York Central?

A. No, sir.

Q. Has it been a loss of business to you?

A. Yes, sir.

Q. Have you heard the prior witnesses of elevator operators here?

A. Yes, sir.

Q. If the same questions were to be put to you as were put to them—

Exam. Dahan: Did you identify the others?

[fol. 612] By Mr. Erickson:

Q. Such as Mr. Funk and Mr. Scott?

A. Yes, sir.

Q. If similar questions were put to you as put to them, would your answer be approximately the same?

A. Yes, sir.

Q. You would say you have been hurt by the publication and maintenance of this rate.

A. Yes, sir.

Q. If it should be continued, would it affect you in the future?

A. Yes, sir.

Mr. Erickson: That is all I have on direct.

Cross examination.

By Mr. Murphy:

Q. Would your answers on cross examination be along the same line as the answers of the other witnesses?

Mr. Murphy: I have no other cross examination.

Exam. Dahan: You are excused.

(Witness excused.)

Mr. Erickson: Mr. Thomas, please.

Maybe we ought to recess until after lunch.

Exam. Dahan: Let us get the short ones out of the way and they won't have to come back.

ROSS THOMAS was sworn and testified as follows:

[fol. 613] Direct examination.

By Mr. Erickson:

Q. Will you please state your name, address, business connection, and its location?

A. Ross Thomas. I am from Ransom, Illinois, Farmers Elevator Company, and I am manager of the company.

Q. What is your experience in the operation of this elevator?

A. I have been manager for one year.

Q. If you were to give us a general statement of your volume of business, would you say that your business is the same today as it was, say, in 1956?

A. No.

Q. Have you lost business to other parties?

A. We have.

Q. And to what parties have you lost business?

A. Well, principally Cahill Grain Company on the New York Central.

Q. That elevator is located on the New York Central.

A. That is correct.

Q. Business which you formerly enjoyed is now going in that direction.

A. That's right.

Q. Is there any means by which you can help yourself to recover this business of which you have knowledge?

A. Not at the present time, no.

[fol. 614] Q. Without a location on the New York Central yourself, is that correct?

A. That is correct.

Mr. Erickson: That is all I have of this witness on direct.

Mr. Murphy: I have just a few questions.

Cross examination.

By Mr. Murphy:

Q. How far are you from the river point that you use?

A. About 12½ miles.

Q. What is that port?

A. That is Seneca.

Q. Do you cross the New York Central on your way to the port with the grain?

A. We do not. The New York Central is south of us.

Q. Can you tell me what proportion of the grain that you handle moves by rail. Free corn I am referring to.

A. May I look at some figures? Would you want those figures for 1957 or prior years or—

Q. Give them to me for 1956 and 1957. I think that would be all right.

A. Take the year of 1956, we moved about 90,000 bushels of corn by rail and about 197,000 by barge.

Q. Was that all free corn?

A. That is correct.

[fol. 615] Q. Ninety thousand bushel by rail moved to Chicago, did it?

A. That's correct.

Q. Would your figures be similar for 1957?

A. No, they would not. 1957, we didn't move any cars by rail.

Q. How much to the river?

A. Two hundred thousand bushels.

Q. So your business was higher in 1957 than 1956?

A. No. Our total volume in 1956 was 287,000 and in 1957, 200,000.

Mr. Murphy: That is all I have.

Redirect examination.

By Mr. Erickson:

Q. Would you give the same answers substantially such as the prior commercial witnesses, such as Mr. Funk and Mr. Scott, with respect to these general questions as were put to them regarding pricing, et cetera?

A. I would.

Q. And you would adopt their testimony as your own then?

A. I would.

Mr. Erickson: That is all.

Recross examination.

By Mr. Murphy:

Q. When you were moving corn during the year 1956, you shipped some by rail and sold some at the river.

[fol. 616] A. That is correct.

Q. What percentage of the corn that you sold to the river moved direct by truck to the river without going through your elevator?

A. I would say about 60, 65 per cent.

Q. The preponderance of it doesn't go through the elevator.

A. That would be right.

Q. You receive bids from both rail bidders and river bidders, I assume.

A. That is right.

Q. In 1956, prior to the time the New York Central's rate became effective, how did the river bid and the rail bid compare?

A. I don't have those figures with me, so I couldn't answer that.

Q. Was the river bid higher than the rail bid or lower than the rail bid?

A. Well, evidently they must have been because of the fact that the preponderance of the corn did move by barge.

Q. You don't have a recollection of the bids.

A. No.

Mr. Murphy: That is all I have.
[fol. 617] Exam. Dahan: You are excused.

(Witness excused.)

Mr. Erickson: Mr. Gage.

LAURENCE GAGE WAS SWORN and testified as follows:

Direct examination.

By Mr. Erickson:

Q. Will you please give your name, your address, and your business location.

A. Laurence Gage, Marsailles, Illinois.

Q. Do you operate an elevator at that point?

A. We have an elevator there at that point, yes, sir.

Q. On what line is it located?

A. On the Rock Island Railroad, main line.

Q. Has that been in operation for a long period of time?

A. A good many years.

Q. How long have you been operating the elevator?

A. Approximately ten years.

Q. In the course of that period of time and prior to the publishing of a 5½ cent New York Central rate were you able to compete with other parties in your general area?

A. Well, we were right on the—

Q. In the buying of grain.

A. No.

[fol. 618] Q. Are you on the river?

A. We are on the river.

Q. How do you handle your grain purchased from the farmer?

A. Direct to the river.

Q. Direct to the river. Do you unload it on the river yourself?

A. No.

Q. How do you get it to a facility on the river?

A. Trucks.

Q. Were you here when Mr. Funk and Mr. Scott testified as to how price bids were established?

A. Yes, sir..

Q. Would your answers be the same as theirs if the same questions were put to you?

A. Yes, sir.

Q. Have you been hurt by this change of rate to 5½ cents on the New York Central?

A. Well, just partially.

Q. Have you lost some business to the people on the New York Central?

A. Possibly some.

Q. You don't know how much?

A. No, I don't.

Q. Do you feel that there is any impact on this rate in the future for you if it should become permanent?

[fol. 619] A. Well, as it is now, our rail rate, we don't have any interest, don't amount to anything. It is our river rate takes care of everything.

Q. Can you still do business at the river?

A. Yes.

Q. Can anybody draw business away from you to the New York Central from your territory?

A. They could.

Q. Do they?

A. A certain distance they do.

Mr. Erickson: That is all the questions I have on this part.

Cross examination.

By Mr. Murphy:

Q. Is your elevator north of the river?

A. Yes.

Q. Is there a bridge across the river where your elevator is located?

A. Yes, sir.

Q. What is the area from which you draw corn?

A. Well, we are located in the valley, and we draw from both sides of the river, which is—

Q. How far south of the river do you normally go?

A. Five, six miles.

Q. And how far north do you go?

A. Approximately the same.

[fol. 620] Q. How far east of the crossing do you go?

A. Oh, about four miles, one way, a couple of miles the other way.

Q. The same distance west?

A. Maybe not quite as far west, a couple of miles west.

Q. I understand that 100 per cent of the corn that you sell at the river goes direct from the farm to the river elevator.

A. Yes, sir.

Q. Do you own your own trucks?

A. No, sir.

Q. Do your truck charges vary by the distance from the river?

A. Yes, sir.

Q. Do you lose any customers to New York Central elevators last year?

A. Not that I know of particularly, no.

Q. Was your business as good last year as it was the year before?

A. I should say just about the same.

Q. How far are you from the nearest New York Central elevator?

A. From Marsailles?

Q. Yes, sir.

A. Twelve, 15 miles, something like that.

[fol. 621] Q. How close to the New York Central do you get when you are at the most southern point of the area from which you draw corn?

A. About six miles.

Q. You come down—how far did you say you were away from the Central?

A. Marsailles is about 25 miles.

Q. From the New York Central?

A. Yes.

Q. You are 25 miles, and your trading area, you say, is about six miles south of the river.

A. Approximately.

Q. How close to the New York Central do you get with your trucks when you buy corn?

A. We have come within practically six miles of the New York Central.

Q. So you have gone down 18 miles.

A. It has gone farther than our regular territory. We have customers.

Q. On some occasions you have gone as far as 18 miles from your elevator to a point near the Central.

A. That's right.

Q. Have you ever gone south of the Central?

A. No, sir.

Q. Do you still have those same customers that you had [fol. 622] during 1956?

A. I would say no.

Exam. Dahan: Let us get this straight now.

I don't know whether you have the question correctly. I believe to a previous question you said you have lost no customers. Now he is asking you whether you have the same customers, and you say no. What is it? Have you lost any customers?

The Witness: You lose some, and you pick up some.

Exam. Dahan: I see. But you do have some of your same customers.

The Witness: Yes.

By Mr. Murphy:

Q. So far the 5½ cent rate hasn't affected you a bit, has it, Mr. Gage?

A. Not too much, no.

Q. Can you tell me how it has affected you if it has affected you?

A. Well, our river rate takes care of all the—as far as our rail shipping, we have no rail facilities; that is, as far as shipping out on rail, there is no incentive to ship by rail with our rate.

Q. The rail rate hasn't affected you, though, the New York Central's rail rate hasn't had any effect, has it, on your business?

A. Well, I think it has to a certain extent. Our south

[fol. 623] territory has been looking toward that rate pretty strong.

Q. You mean the points that would be 18 miles from Marsailles.

Mr. Murphy: That is all I have.

Mr. Erickson: No redirect.

Exam. Dahan: You are excused, Mr. Gage.

(Witness excused.)

Exam. Dahan: Call your next witness.

Mr. Erickson: That is all I have to offer.

Exam. Dahan: Are you going to have any more of these country dealers?

Mr. Erickson: There was to be one other party here, but I don't see that he has put in an appearance, Mr. Farlow from Bloomington, Illinois.

Exam. Dahan: That is all the country—

Mr. Erickson: That is all we have.

Exam. Dahan: We will recess until a quarter of 2:00, one hour.

(Whereupon, at 12:45 p.m., a recess was taken until 1:40 p.m. of the same day.)

[fol. 624]

AFTERNOON SESSION

1:45 p.m.

Exam. Dahan: Come to order, please.

Are you ready to proceed, Mr. Hayes?

Mr. Hayes: Yes, sir.

Exam. Dahan: Call your next witness.

Mr. Legg: It was our understanding Mr. Freeman had a witness he wanted to get out of the way.

Mr. Hayes: We will let Mr. Freeman go first then.

Mr. Freeman.

LESTER BREHMAN was sworn and testified as follows:

Direct examination.

By Mr. Freeman:

- Q. Will you give your full name and address, please.
 A. Lester Brehman, Streator, Illinois, Route 5.
 Q. Do you own and operate a grain elevator?
 A. I do, yes.
 Q. Where is it located?
 A. Four miles north of Streator on the Burlington.
 Q. What is the name of the station?
 A. Richards Station.
 Q. What is the capacity of your elevator?
 A. Twenty thousand bushels, approximately.
 Q. Do you buy and sell grain at your elevator?
 A. I do.
 [fol. 625] Q. How many employees do you have?
 A. One steady and two part-time.
 Q. How long have you operated this elevator at Richards Station?
 A. Since September 1953.
 Q. To whom do you market corn?
 A. To Payne Stottler, Cargill, and Norris at Ottawa, Glidden and Continental at Seneca.
 Q. How does the corn move that you sell to Payne Stottler?
 A. By rail.
 Q. That would be the Burlington?
 A. By the Burlington.
 Q. How far are you from the river stations to which you sell?
 A. About 12 miles to Ottawa and about 22 to Seneca.
 Q. On what basis do you sell to the river elevators?
 A. Pardon?
 Q. On what basis do you sell, delivered basis?
 A. Both. Yes, delivered. Yes, that would be it.
 Q. Delivered to the river elevator.
 A. That's right.

Q. Are you familiar with the reduced rate that the New York Central has put in on the Kankakee Belt?

A. Yes, I am.

Q. What effect did that reduction have on your business?
[fol. 626] A. Well, it had quite an effect in decrease in business.

Q. Do you have some comparative figures for 1956 and 1957?

A. Well, no, not too good. I do have some.

Q. Will you give us the figures that you have for 1956 and 1957?

A. In 1957 it was 131,931 bushels.

Mr. Hayes: Of corn?

The Witness: Corn.

Mr. Hayes: Free corn.

The Witness: Free corn.

By Mr. Freeman:

Q. What is the figure for 1957?

A. 89,410.

Q. That reflects a reduction of how many bushels?

A. Well, that would be, looks like about 42,000 bushels.

Q. Are your purchases for sale both to the river and via the Burlington affected by the reduction on the New York Central?

A. They are, yes.

Q. From what area do you purchase corn?

A. Well, it would be about an area of about $2\frac{1}{2}$ to $3\frac{1}{2}$ miles from the elevator.

Q. Do you compete with any elevators on the New York Central in the purchase of corn?

[fol. 627] A. Well, I try to.

Q. What elevators do you try to compete with in the purchase of corn?

A. Well, it would be at Budd and Missal and Milla.

Q. Do you compete with any one at Streator?

A. Yes. I have heard of—yes.

Q. Whom do you compete with at Streator?

A. Well, it would be Barrett.

Q. Is that Isaac Barrett, who was mentioned this morning?

A. Isaac Barrett, yes. Did you want me to put on the map where this—

Q. Yes, it might be helpful if you would indicate.

Mr. Freeman: Let the record show that Richards Station is circled.

I have no more questions.

Cross examination.

By Mr. Murphy:

Q. Do you also compete with other elevators than those that you mentioned?

A. I do, yes.

Q. On the corn that you sell for delivery at the river, the delivered corn, do you handle that corn direct from the farm to the river?

A. I would say about half of it would go direct from the farm to the river or somewhere in that—possibly a little more comes into the elevator than goes direct to [fol. 628] the river.

Q. How much of the corn that you handled in 1956 moved by rail, the free corn?

A. Yes. I don't just exactly have the bushels, but I—

Q. It is a small proportion?

A. I believe it was around 48 carloads in 1956, and in 1957 it was twelve carloads.

Q. Do you handle CCC corn?

A. I did. In 1956 I believe it was around or approximately 42,000, and in 1957, 71,000.

Exam. Dahan: You are talking about bushels?

The Witness: Bushels.

By Mr. Murphy:

Q. Why do you handle 50 per cent of your corn direct from the farm to the river?

A. Well, they have their own trucks, a good many of

them, and they seem to think that they do get more if they haul it direct to the river. It does net them a little more.

Q. Have you ever had it sent direct to the river yourself where there has been no request from the farmer?

A. Well, I did once, I believe; yes.

Q. How far from the Missal elevator are you?

A. I would say it is about twelve miles.

Q. You indicated your normal area has a radius of $2\frac{1}{2}$ to 3 miles.

[fol. 629] A. Yes.

Q. Is that something unusual when you would be competing with Missal, that distance?

A. Yes, I believe so. Three and a half miles, say, east; then it would start to get into Mr. Funk's territory, understand. Of course I may have bought corn that was in his territory before this New York Central lower rate went into effect.

Q. Well, to the extent you felt the competition from Missal, that was on a farmer that was considerably beyond the normal area from which you draw.

Mr. Freeman: I might ask you to clarify, when did you feel this competition he is talking about?

The Witness: Well, it wasn't too much before last year. I didn't really notice it much in December of 1956, because I don't think the word had got around, you might say, that my customers really knew too much about it.

By Mr. Murphy:

Q. My question now is this, the competition that you felt from Missal since this $5\frac{1}{2}$ cent rate has been in effect has been mostly at customers that were beyond the normal area from which you draw corn.

A. No, no; they were within, say, two miles of me and possibly nine or ten miles from Missal.

[fol. 630] Q. Do you compete with the elevator at Grand Ridge?

A. I do.

Q. Does your area extend north about midway between Richards—

A. No, not quite. No, I believe that they come down closer to my territory than I go up into theirs. That is, I don't get very much corn, say it is halfway up to Grand Ridge, two miles. Most of mine would be closer than that.

Q. The witness that testified, the manager of the elevator at Grand Ridge, introduced figures that showed that his business in 1957 went up over 1956. Did you feel any increased competition from him?

A. Well, no, I don't believe that I noticed so much loss due to their end.

Mr. Freeman: I didn't hear the finish of your sentence. What did you—

The Witness: I don't believe that my loss would be to their gain. But as I look through my records of individual, I see that some of them haven't sold me anything last year, where heretofore they had, and they were farther from Grand Ridge than I was, you might say. So I felt that corn must have went the other way.

Mr. Murphy: That is all I have, your Honor.

[fol. 631] Exam. Dahan: You are excused.

(Witness excused.)

Exam. Dahan: Next.

Mr. Hayes: Mr. Gally.

Exam. Dahan: If you have any more witnesses for this afternoon, we will swear them at one time.

(Witnesses sworn.)

GLEN GALLY was sworn and testified as follows:

Direct examination.

By Mr. Hayes:

Q. Will you state your full name, Mr. Gally?

A. Glen Gally.

Q. Where do you live, sir?

A. Mazon.

Q. With what company are you connected?

A. Mazon Farmers Elevator.

Q. What is your connection with that company?

A. Assistant manager.

Q. How long have you been connected with that company?

A. Five years.

Q. You referred to that as a farmers' elevator. What is its organization?

A. It is a co-op.

Q. A farmers' co-op?

[fol. 632] A. Yes.

Q. How many farm members did it have in 1956, sir?

A. Between 900 and a thousand, I would say.

Q. Does it operate a grain elevator?

A. Yes.

Q. At Mazon?

A. Yes.

Q. What is the capacity of that elevator?

A. Between 60, 65,000.

Q. How many employees does the farmers' co-op at Mazon that you are connected with have?

A. Eight.

Q. Is its elevator located on any railroad?

A. Santa Fe.

Q. Do you know of this 5½ cent New York Central rate?

A. Yes.

Q. What effect, if any, has that had on the business of your company, sir?

A. It has had quite a bit.

Q. Has it helped it a lot, or how is the fact?

A. No, it didn't help it a lot.

Q. What did it do to it?

A. Decreased it.

Q. Can you give me the comparison between the bushels of free corn that your company handled the first eight [fol. 633] months of 1956 and the corresponding period in 1957?

A. Yes.

Q. Give me first the number of bushels your company handled of free corn for the first eight months of 1956.

A. 467,951.

Q. Now the number of bushels of free corn that your company handled in the first eight months of 1957?

A. 350,564.

Q. Where did that corn go that you didn't get in 1957?

A. Went south of our elevator.

Q. When you say it went south of your elevator—

Mr. Murphy: I object. What corn he didn't get, I am sure he doesn't know where it went. Which corn that he had, he would know where it went.

Mr. Hayes: Maybe he does know. He said he did.

By Mr. Hayes:

Q. When you say it went south of your elevator, to what do you refer, to what place?

A. Dwight.

Q. For a shipment east to Chicago.

A. Right.

Q. What elevator—

Mr. Murphy: I object to that, Your Honor. The record already shows that the movement was through Kankakee and not through Chicago, so when Mr. Hayes is leading his witness like that, he ought at least to stick to the facts.

[fol. 634]

By Mr. Hayes:

Q. Well, movement eastbound from Dwight, put it that way.

A. Right.

Q. What elevator in Dwight is located on the New York Central rails?

A. Dwight Farmers.

Q. Is that the shipping elevator that got that difference?

A. That's right.

Q. Since this 5½ cent New York Central rate went into effect has any corn been shipped east from your elevator, free corn, that is, by Santa Fe?

A. No.

Q. How far are you from Dwight, speaking of your elevator?

A. Nine miles.

Q. How far to the near east river elevator?

A. Nine miles.

Q. Are you north or south of the New York Central?

A. North.

Q. What is the truck rate from your elevator to the river?

A. Three cents.

Q. To what stations on the river do you ship when you [fol. 635] ship to the river?

A. Norris, Cargill, and Continental.

Q. Are those the names of the companies that own the elevators?

A. Right.

Q. At what places are those three elevators located?

A. Morris and Seneca.

Q. Referring to the harvest season in 1957, were there any weather conditions that delayed harvest?

A. Yes.

Q. What happened?

A. Late planting.

Q. Was the harvest delayed?

A. Harvest delayed.

Q. And you are saying that in comparison with 1956, I suppose.

A. Yes.

Q. In 1956 was there any such delay?

A. No.

Q. Do you ask the railroad on which your elevator is located to reduce its rates on corn eastbound to compete with the New York Central?

A. Right.

Mr. Murphy: Objection, your Honor. That is completely immaterial, what he asked some other railroad to do. [fol. 636] We are talking about a New York Central rate now.

Mr. Hayes: Had you finished?

Mr. Murphy: Yes.

Mr. Hayes: A rate that is calculated to break down the

rail rate structure all the way on either side is a rate that is interesting for that reason, as well as others.

Exam. Dahan: Objection overruled.

Mr. Legg: Did you answer the question?

Mr. Hayes: He answered "Right."

Exam. Dahan: Did you answer?

The Witness: Right.

By Mr. Hayes:

Q. That was since this 5½ cent rate went into effect.

A. Right.

Q. Is your situation, sir, in the accumulation of grain—in the accumulation of corn getting any better?

A. No.

Q. Is it getting any worse?

A. Yes.

Q. Is the news of this 5½ cent rate penetrating further and further into the consciousness of farmers around there?

A. It seems to be.

Mr. Hayes: You may ask.

[fol. 637] Exam. Dahan: You may inquire, Mr. Murphy.

Cross examination.

By Mr. Murphy:

Q. What percentage of the 467,000 bushels your elevator handled during the first months of 1956 moved via the river?

A. What percentage of it? All of it.

Q. Is the same true for your 1956 figures?

A. Yes.

Mr. Hayes: You asked him about the 1956 figures.

By Mr. Murphy:

Q. 1957 figures. Excuse me.

Exam. Dahan: I would like to have counsel either direct their questions to the witness or any matter that they have to say directed to the examiner.

Mr. Hayes: Mr. Examiner—

Exam. Dahan: We have too much consultation between counsel going on the record.

Mr. Hayes: Is the record clear to your satisfaction on the present point?

Exam. Dahan: Yes, it is clear. I mean, in the future.

By Mr. Murphy:

Q. Is the same thing true for the 1957 period?

A. Right.

Q. Has that generally been true, that all of your corn has moved to the river?

[fol. 638] A. Yes. Most all our corn has moved to the river.

Q. Can you tell me what percentage of the corn that you handle moves direct from the farm to the river?

A. Practically all of it.

Q. Does any of it go through your elevator?

A. No.

Q. Do you have the figures for the full years 1956 and 1957?

A. No, I haven't.

Q. You indicated that the news was getting to the farmers, the fact they could get rail bids on the New York Central, is that correct?

A. That is correct.

Q. What is the effect of that? They are asking for a higher bid now from you?

A. Right; right. To compete, yes.

Q. They want you to go up above what you had been, is that right?

A. Right.

Mr. Murphy: Thank you. That is all I have.

Exam. Dahan: Redirect?

Mr. Hayes: No.

Exam. Dahan: You are excused, thank you.

(Witness excused.)

[fol. 639] DALE TREASURE WAS SWORN and testified as follows:

Direct examination.

By Mr. Hayes:

Q. Will you state your full name, please.

A. Dale Treasure.

Q. In view of the air conditioning noise, if you can keep it in mind to hold your voice up, everybody will appreciate it. Where is your home?

A. Gardner, Illinois.

Q. Gardner, Illinois?

A. Yes, sir.

Q. Are you connected with the grain business there?

A. Yes, sir.

Q. What is the name of the company?

A. Treasure Grain Company.

Q. Who owns that company?

A. My father, Charles Treasure.

Q. What is your connection with it, sir?

A. Assistant manager.

Q. Does it own an elevator?

A. Pardon?

Q. Does that company own an elevator?

A. Yes, sir.

Q. What is the capacity of the elevator storage?

A. About 25,000.

[fol. 640] Q. How long has it been located where it is?

A. Well, we have had it for 27 years, and it has been there, I don't know how long before that. I really don't know.

Q. And it is located at Gardner.

A. At Gardner, yes, sir.

Q. How close is the nearest elevator on the New York Central Lines to your elevator at Gardner?

A. Four and one-half miles.

Q. In which direction?

A. South.

Q. How close is the nearest elevator on the river to where you are?

A. Nineteen miles.

Q. And at what point?

A. Morris.

Q. And in which direction?

A. North.

Q. So you are located between the New York Central and the river.

A. Yes, sir.

Q. Four and one-half miles from the New York Central and 19 miles from the river.

A. Yes, sir.

Q. What is the name of the elevator on the New York [fol. 641] Central that is south of you?

A. Nielsen Grain Company.

Q. The Nielsen Grain Company.

A. Yes, sir.

Q. At what point is that located?

A. At Blair.

Q. What is the truck rate to the river from your elevator?

A. Three and three-quarters.

Q. Three and three-quarters cents a bushel.

A. Yes, sir.

Q. You are familiar with this 5½ cent New York Central rate?

A. Yes, sir.

Q. What effect has that had on the elevator business with which you are connected?

A. Well, it has hurt our business, and if it keeps it up, we will just be out of business.

Q. Do you have any comparative figures for the first eight months of 1956 and the first eight months of 1957?

A. Yes, sir.

Q. Would you give me, please, the volumes of free corn handled through your elevator in the first six months of 1956 and the first six months—I beg your pardon—eight months, the first eight months of 1956 and the first eight months of 1957, respectively.

[fol. 642] A. 1956 would be 198,402 bushel, and 1957 is 148,141 bushel.

Q. That seems to be a difference of something in excess of 50,000 bushels.

A. Yes, sir.

Q. That was corn?

A. Corn, yes, sir.

Q. Free corn?

A. Yes, sir.

Q. Where did that 50,000 go?

A. Well, that went through—I would say just about all of it went to Blair. Now some of that went to Dwight. Dwight has a farmers' elevator in Gardner, just a block down the street from us, and they bid New York Central track. Then they haul that going down to Dwight.

Q. I see.

A. So we are not hurt in Blair; we are hurt right in Gardner.

Q. What is the name of this elevator that has the branch in your town and its headquarters in Dwight?

A. That is the Farmers' Elevator, Dwight Farmers' Elevator.

Q. If I understand you right, they buy corn in your area—

A. They bid Dwight New York Central track down at [fol. 643] their elevator right in Gardner.

Q. I see. The New York Central track price.

A. Yes.

Q. I think you said they trucked it down to Dwight then.

A. Yes.

Q. And elevated it there and loaded it on to a freight car to go east from Dwight.

A. Yes, sir.

Q. That is interesting.

Now, has there been recently, to your knowledge, since this 51½ cent rate went into effect is what I mean by "recently"—have there been purchases of grain for shipment east on the New York Central from farmers located north of you?

A. Yes, sir.

Q. About how far did that corn that was bought north of you have to go by truck to get to the New York Central.

Mr. Murphy: I am going to object to this testimony about what someone else did; a transaction that took place between some unnamed person and a farmer—

Mr. Hayes: We will name them. I can only ask one question at a time.

Mr. Murphy: I object to it whether you name them or [fol. 644] not on the grounds that it is hearsay. This witness certainly isn't competent to be able to describe the business transactions of other people to which he was not a party.

The Witness: I have proof.

Mr. Hayes: Just a minute. This is just our fight, not a free one. This witness is a grain dealer in that territory and any grain dealer in that territory that doesn't know where his old customers are shipping their grain is out of business for other reasons than rail rates. He knows the course of his business.

Exam. Dahan: I will let him answer.

Mr. Hayes: Will you please read him the question.

(Question read.)

The Witness: Nine and one-half to 10 miles.

By Mr. Hayes:

Q. Was that free corn?

A. Yes, sir.

Q. Has there been recently an advertising campaign by dealers on the New York Central to publicize this 5½ cent rate?

A. Yes, sir.

Q. Tell me about that?

A. Well, there is not much to tell except that when that come out in the paper, we might as well shut our doors almost.

[fol. 645] Q. Were these paid advertisements?

A. Pardon?

Q. Were these paid advertisements?

A. Yes, sir.

Q. Is this situation in which you find yourself with respect to the accumulation of grain—strike that—accumulation of corn getting better or getting worse?

A. It is getting worse.

Q. Have you and your father talked that situation over together and come to a conclusion as to whether you will be able to stay in business if this 5½ cent rate continues permanently?

A. Yes.

Mr. Murphy: I object, your Honor, as to whether—

By Mr. Hayes:

Q. And do you expect to stay in business if that rate continues permanently?

A. No, sir.

Q. Referring, Mr. Treasure, to the 1957 corn harvest, was that harvest delayed for any cause?

A. Yes.

Q. What was it?

A. Well, it was a late year, wet. They couldn't plant it in time. It was late, a wet year.

Mr. Hayes: You may ask.

[fol. 646] Cross examination.

By Mr. Murphy:

Q. What is the normal radius within which you draw corn?

A. Oh, 5½, 6 miles, all the way around.

Q. All the way around.

A. North, south, east, and west.

Q. That means you draw south of the New York Central normally?

A. Yes. We were there, that was the reason.

Q. Prior to the time the rate became effective you drew corn south of the New York Central—

A. No, sir.

Mr. Hayes: He already said so. I object to the repetition.

Mr. Murphy: He just denied it.

Mr. Hayes: He didn't deny it.

The Witness: This was before.

By Mr. Murphy:

Q. I am going to ask it once again. Prior to December 15, 1956 did you draw corn from the area south of the New York Central Railroad?

Mr. Hayes: I object to that as asked and answered.

Exam. Dahan: Overruled.

The Witness: Prior to 1956.

By Mr. Murphy:

Q. Yes.

A. A little, yes, sir.

[fol. 647] Q. What percentage of the corn that you handled during the first eight months of 1956, being 198,000 bushels, did you handle to the river?

A. From south of—

Q. You testified that you had handled 198,000 bushels of corn during the first eight months of 1956. How much of that went to the river?

A. That was practically all of it. Maybe 1 or 2 per cent didn't go to the river.

Q. Is the same thing true of the business that you handled in 1957?

A. Yes, sir.

Q. What percentage of the 198,000 bushels that you handled during the first eight months of 1956 moved direct from the farm to the river without being elevated through your elevator?

A. Well, I would say 98 or 99 per cent.

Q. So therefore 98 or 99 per cent of the business that you handled in 1956 you handled as a merchandiser, is that correct?

A. Yes, sir.

Q. And your elevator facilities were not used on any of that business?

A. On some of that, on tail-end of jobs.

Q. On the 2 per cent, you mean.

A. That would be the tail end of a job. Sometimes you [fol. 648] can't take it to the river, you can't haul a truck over there with 50 bushel on it, so we dump it in the elevator. Some of that comes in for feed in the elevator.

Q. Well, on the business that comes in for feed and is used locally this rate is not a factor, is it?

A. Not in that, no, sir.

Q. Is the truck rate from the point south of the New York Central to Morris?

A. No, this south of the New York Central, we have one farm south, and we didn't buy the corn last year, in 1957.

Q. Let us take a point 4 miles south of Gardner, a farm there, and assume that you are trucking corn from that farm to Morris, Illinois?

A. There and three-quarters cents a bushel.

Q. What is your truck rate from a point six miles north of Gardner?

A. Six miles north? Three and a quarter cents a bushel.

Q. It would be less farther north.

A. Yes.

Q. What would the truck rate from that point six miles north of Gardner be to Blair?

A. I can't answer that. I don't know.

Q. You mentioned that the Dwight Farmers Elevator—[fol. 649] am I correct in understanding that you said that the Dwight Farmers' Elevator has an operation at Gardner?

Mr. Hayes: Where?

Mr. Murphy: Gardner.

Mr. Hayes: Oh, yes.

By Mr. Murphy:

Q. Have they had that operation there for a long time?

A. That has been there as long as I can remember. I don't know how long. That has been there a good twenty years, twenty-five years.

Q. You mentioned a few instances of corn moving from north of Gardner down to Blair, I believe it was, in your direct testimony. Was that isolated cases?

A. How was that again?

Q. You mentioned corn moving 9½ miles from an area north of you down to the New York Central elevator. Were those isolated situations, sir?

A. That just come in after this notice in the paper.

Q. That was just one situation, is that right?

A. That is the only one I know of, yes, sir, that far north.

Mr. Murphy: That is all I have.

Exam. Dahan: Redirect.

Redirect examination.

By Mr. Hayes:

Q. You mentioned a feed business there. Is it possible [fol. 650] to continue your feed business, Mr. Treasure, if you don't have this elevator enterprise and business there?

A. It is very doubtful. We have been grinding feed there now for—well, since 1931, and you just can't stop grinding feed and start selling the commercial feed because the farmers will go right down the street for it, so that quashes that right there.

Q. If I understand you, it is necessary to have the elevator and the elevator business in order to continue the feed business?

A. Feed business, yes, sir.

Q. So your expectation of discontinuing the elevator business includes an expectation of discontinuing the feed business.

A. It means that and fertilizer and everything else.

Mr. Hayes: That is all.

Exam. Dahan: You are excused.

(Witness excused.)

Exam. Dahan: Next.

Mr. Hayes: Mrs. Bookwalter.

Mrs. EDA BOOKWALTER was sworn and testified as follows:

Direct examination.

By Mr. Hayes:

Q. Mrs. Bookwalter, will you please state your name [fol. 651] to the reporter?

A. Eda Bookwalter.

Q. Where is your home?

A. Braceville, Illinois.

Q. Are you connected in any way with an elevator business?

A. Yes.

Q. What is the name of the company?

A. Bookwalter Grain Company.

Q. Does it own an elevator?

A. Yes.

Q. Where is the elevator located?

A. Essex, Illinois.

Q. Is that north or south of the New York Central?

A. North.

Q. About how far north from the near east—

A. About seven miles.

Q. From the near east New York Central station?

A. Seven miles.

Q. What is that New York Central Station?

A. Union Hill Farmers.

Q. About how far from the river?

A. Twenty-eight miles.

Q. So you are located between the New York Central and the river.

[fol. 652] A. Yes.

Q. Who is the owner of the elevator with which you are connected?

A. Ira J. Bookwalter, my husband.

Q. What is your connection with that business?

A. I take care of the office and the books.

Q. How long has that elevator been there?

A. Oh, as long as I can remember. That is quite a long time.

Mr. Hayes: I shall advise the witness to resort to her constitutional privilege.

By Mr. Hayes:

Q. What is your truck rate to the river?

A. Four cents.

Q. When you say "to the river," to what points on the river?

A. You mean the elevators on the river? At Morris, Illinois. They are Norris Grain, Cargill, Inc., Illinois Grain Terminals, and Continental Grain.

Q. And have you from time to time sold grain to all of those elevators?

A. Yes.

Q. What points on the river are those several elevators located?

A. All at Morris, Illinois.

Q. Do you have knowledge of this 5½ cent rate the New [fol. 653] York Central put in?

A. Yes, I do.

Q. What has that done to the business of your company, Mrs. Bookwalter?

A. It has decreased the business enormously.

Q. Do you have some figures there that will show us the comparison between the volume of free corn handled by your elevator in the first eight months of 1956 and the corresponding period of 1957?

A. We had from January 1 to August 31, 1956, 177,231 bushels, and January 1, 1957 to August 31, 1957, 140,873 bushels.

Q. Has there been an advertising campaign that has come to your attention to publicize this New York Central—

A. Yes, there has.

Q. —rate? I show you what purports to be a newspaper advertisement—

A. Yes, that's right.

Q. What publications did that appear in?

A. Gardner Chronicle, printed in Gardner, Illinois; the Emington Journal, printed in Emington, and the Essex West Side Telephone, which is our little paper from our little town, that I know of for sure.

Q. Could you give us approximately the dates between which that advertisement appeared in those papers?

[fol. 654] A. The first time it appeared that I saw it was a week ago last Thursday.

Q. Have you seen it again since then?

A. Yes, I have seen it in the same papers since then.

Q. Will you read that advertisement into the record, please, Mrs. Bookwalter?

A. You want the whole—

Q. Yes, if you please.

Mr. Murphy: I haven't seen this, and I don't think—

Mr. Hayes: I offered it to you, counsel. If you want to look at it, you are quite welcome to do so.

Mr. Murphy: You waved something around the room. I didn't recognize it as an offer. Thank you, though.

Nielsen Grain Company is not a party to this proceeding, so I object to this. I don't know what—I don't know under what rules of evidence you attempt to introduce it.

Exam. Dahan: You may read it.

Mr. Murphy: I have an objection pending.

Exam. Dahan: All right. After she gets through reading it, if you want to have it stricken from the record, we will consider it then.

The Witness: "We are now selling grocoated mangle-dorf seed, also Lester Pfister seed corn. We have a lower [fol. 655] freight rate on corn here. Our scale of moisture discount is 1 cent for each $\frac{1}{2}$ of 1 per cent moisture over 15.5. Come in and see us for better price, Nielsen Grain Company, Blair, Illinois. Post Office, Reddick, Illinois."

By Mr. Hayes:

Q. How far is Blair, Illinois from your—

A. About—

Mr. Murphy: I have an objection pending.

Exam. Dahan: The objection is overruled.

The Witness: About 13 miles by good road, I would say, trucker's road.

Mr. Hayes: Off the record.

(Discussion off the record.)

By Mr. Hayes:

Q. Is your situation, referring to the situation of the business with which you are connected, in the accumulation of corn getting better or getting worse?

A. It is getting much worse as the advertisement came out.

Q. Does the proprietor of the business with which you are connected expect to continue doing business—

A. No.

Q. —if this rate becomes a permanent one?

A. No, he couldn't.

Q. I think you said this elevator with which you are [fol. 656] connected is located at Essex, Illinois.

A. That is true.

Q. Do you know of instances since this rate went into effect, this 5½ cent rate, in which free corn has moved from farms north of Essex by truck, south past Essex, to the New York Central Railroad for shipment eastbound?

A. Yes.

Q. Can you give me an example of that?

A. Yes. Just three days ago, one instance, there was a truck that was sent down by—shall I mention Nielsen Grain—Nielsen Grain to a farm east and north of Essex that became lost and came back to Essex to ask the direction to get to the farm, and apparently thought that they had bypassed it. Instead they hadn't gotten to it yet. They were within two miles of it and turned all the way back and came to Essex. We had to direct them to this place which was about between 7 and 8 miles farther on from Essex, to the north and east.

Mr. Hayes: I think you may ask.

Mr. Murphy: Thank you.

Cross examination.

By Mr. Murphy:

Q. That instance of the lost truck is the only such situation that you are aware of, isn't it?

A. Of being lost, but not of getting corn. There are [fol. 657] others.

Q. Can you tell me how much of the 177,000 bushels you handled during the first eight months of 1956 moved to the river?

Mr. Hayes: What was the figure?

The Witness: All of it.

Mr. Murphy: 177,000.

By Mr. Murphy:

Q. Is that figure correct?

A. 177,231, all that was delivered to market was sent to the river.

Q. How much of that that moved to the river moved direct to the river from the farm without elevation at your elevator?

A. Most of it. I wouldn't—I could tell you on a yearly basis just exactly how much didn't move over to the river or how much had gone through the elevator, but—

Q. I am satisfied with your answer.

A. Yes. Most of it does.

Q. Is the same thing true in regard to the 1957 movements?

A. Yes.

Q. What you do elevate is what is used for feed, I assume.

A. Sometimes we get overloaded, and we take a load [fol. 658] or so to the river, but we do use some for feeds.

Q. It would only be when you have corn you don't want to use for feed that you might truck it from the elevator to the river.

A. That is true.

Q. Otherwise it moves direct from the farm to the river.

A. Yes.

Q. You indicated you saw this advertisement for the first time last Tuesday, is that correct?

A. A week ago Thursday. The paper comes out on Thursday.

Q. The paper comes out on Thursday.

A. Wednesday afternoon, and we get it Thursday.

Q. That was the first time that came to your attention.

A. That was the first time I had seen it.

Q. You indicated business had become worse since that came out?

A. Yes. If you want me to explain that, the farmers that come into the elevator talked about it when it came out in the paper, and before that they didn't because some of them hadn't come in contact with that, because most of our customers generally come to our elevator to do their business, and if they are good customers, they don't shop

around, and in other words, when that came out in the paper they had an opportunity to see what was going on, [fol. 659] and a good many of them, of course, will take advantage of that.

Q. Now they want a higher bid than you have been giving them, is that correct?

A. It is higher than we can pay.

Mr. Murphy: Thank you. That is all.

Mr. Hayes: That is all.

(Witness excused.)

Exam. Dahan: We will have a five-minute recess.

(Short recess.)

Exam. Dahan: Come to order, please.

Mr. Freeman: Mr. Dewey.

Exam. Dahan: We have an appearance here.

Mr. Farlow, do you desire to enter an appearance at this time?

Mr. Farlow: Yes.

Exam. Dahan: Give the reporter your name and address, and indicate whether or not you have appeared before the Interstate Commerce Commission.

Mr. Farlow: My name is Laurence Farlow. Address is 521 McGregor Street, Bloomington, Illinois.

Exam. Dahan: You are appearing in whose behalf?

The Witness: On behalf of the Farmers Grain Dealers Association of Illinois.

Exam. Dahan: Are you an officer of that organization? [fol. 660] Mr. Farlow: I am.

Exam. Dahan: Very well, sir. Your appearance may be entered. Do you desire to make a short statement at this time?

The Witness: I do.

LAWRENCE FARLOW was sworn and testified as follows:

Direct examination.

The Witness: My name is Lawrence Farlow. My address is 521 McGregor Street, Bloomington, Illinois.

I am employed as secretary of the Farmers Grain Dealers Association of Illinois; address, 230 Unity Building, Bloomington, Illinois.

One of my duties is to handle traffic problems for about three hundred Farmers Cooperative Elevator Companies with grain loading facilities at about four hundred railroad stations in Illinois. These grain loading facilities were originally designed to receive grain from farm wagons and trucks, assemble the grain in carload lots and load it out into railroad cars for shipment by rail.

Since all country grain elevator operators in a given area must base their bids to producers on the price at the most advantageous terminal market less transportation costs, we believe that each country elevator operator having rail [fol. 661] loading facilities is entitled freight rates that are fairly competitive with rates from stations on other railroads in the same general area. It is also desirable that railroad rates in any general area be fairly competitive, with the cost of other forms of transportation.

Soon after the New York Central published a 5 cent rate for corn to Kankakee from stations on its line as far west as Moronts, Illinois we received complaints from our member companies located on the Illinois Central, the GM&O, and the CB&Q, advising that their competitors on the NYC were bidding as much as—

Mr. Murphy: I am going to object to this testimony as to what somebody told him, because I have no opportunity to cross examine and determine the basis for such statements. It is hearsay.

Exam. Dahan: Overruled. Continue.

The Witness: —4 cents per bushel for corn more than they could bid on the basis of rates applicable on their railroads; and that as a result of the disparity in rates it was necessary for them to abandon corn loading operations through their established facilities.

We advised them that we would discuss the matter with the traffic officers of the railroads on which they were located and ask them for competitive rates. Since grain [fol. 662] prices in that general area are based on the Chicago market we suggested to the competing railroads that they publish competitive rates to Chicago. The traffic officers on a number of the competing railroads assured us that they were willing to consider the publication of rates low enough to meet the truck and barge competition, but they could not justify rates as low as that published by the New York Central.

Mr. Murphy: I object to this, your Honor, and I ask that that be stricken. That is certainly not something within the competence of this witness, and I am at a complete loss on cross examination. He is testifying about the truth or falsity of the statements that were made. It is clearly hearsay, and I think it is objectionable.

Mr. Chartrand: Mr. Examiner, if I understand this statement correctly, those were the statements made to this man by the railroads. That he knows.

Exam. Dahan: Objection overruled. You may continue.

The Witness: It is our observation that the rail carriers in this general area have been losing an increasing volume of corn year after year to truck and barge competition. We believe the affected railroads should seek a level of rates that would be competitive with the truck- [fol. 663] barge cost of transportation.

Such rates should be fairly competitive among railroads to preserve tranquility in the country grain elevator industry. A competitive rate for corn from any station in Illinois to Chicago, and to industries in the Chicago switching district, must have proportional application to be effective. Rail carriers should be granted such Fourth Section relief as may be necessary to enable them to compete with traffic on the Illinois Waterway.

Exam. Dahan: Do you have any questions, Mr. Chartrand?

Mr. Chartrand: Yes, one.

• By Mr. Chartrand:

Q. Then, Mr. Farlow, if I understand your statement correctly, you feel here that the New York Central or a railroad should have Fourth Section relief to meet a competitive situation, but on the other hand, it should be on a fair competitive level, is that correct?

A. Yes, that is my opinion.

Mr. Chartrand: Thank you.

Exam. Dahan: Do you have any cross examination, Mr. Hayes?

Mr. Hayes: Well, I shall have some of the witness.

Exam. Dahan: Very well. It is your turn.

[fol. 664] Cross examination.

By Mr. Hayes:

Q. Do you think the 5½ cent rate is a fair competitive level?

A. It is not competitive with rates on other railroads in that general area.

Q. Because it is too high or it is too low?

A. It is lower than rates on other railroads.

Mr. Hayes: That is all.

By Mr. Murphy:

Q. The reason you think that the 5½ cent rate may be too low is because it is solely based on the comparison—

Exam. Dahan: I don't think he said it was too low.

Mr. Hayes: Didn't he?

Exam. Dahan: No, he said it was lower than other railroads.

Mr. Murphy: I am satisfied with that.

Exam. Dahan: Isn't that your statement?

The Witness: That is what I said.

Exam. Dahan: You didn't make any statement as to whether the rate was too high or too low, you just said in comparison with the other rail rates that it was lower.

The Witness: I haven't made a study of the cost of transportation, and I am not prepared to say that it is too low.

[fol. 665] Mr. Hayes: I didn't understand his answer.

Exam. Dahan: That is how I understood him, that he wasn't concerned with the compensatory character of the rate at all. He just said it was lower than the rates of other rail carriers.

Mr. Hayes: I didn't understand his answer.

Exam. Dahan: Very well.

By Mr. Hayes:

Q. I didn't ask you that, sir, as a cost expert, understand, at all.

A. No.

Q. If you so understood me, I will have to ask again. You have considered a competitive situation, however.

A. I have.

Q. What I am asking about, from the standpoint of the competitive situation, is this 5½ cent rate too high or too low?

A. Well, it is lower than the rate on other railroads and low to the extent that it is causing some very embarrassing situations among country grain dealers in that area.

Q. Because it is too high or too low?

A. Because it is lower than rates on other railroads.

Mr. Hayes: That is all.

By Mr. Murphy:

Q. Mr. Farlow, you have heard the testimony of some of the witnesses that have preceded you to the extent that [fol. 666] they didn't use the rails—at least some of them didn't use the rails for the movement of their corn and used the river. Did you consider that when you took a position in this case?

A. I don't believe I understand the question.

Q. You have indicated that there has been some disruption among country elevator operators. Is the practical effect of that disruption minimized by the fact that some of the country elevator operators use truck and barge exclusively and don't use rail?

A. Well, in certain locations that would be true.

Mr. Murphy: I have nothing further.

Exam. Dahan: That is all. Thank you. You are excused. You want to be excused from the hearing?

The Witness: Yes.

Exam. Dahan: You may be.

(Witness excused.)

Mr. Freeman: Mr. Dewey.

ROBERT DEWEY was sworn and testified as follows:

Direct examination.

By Mr. Freeman:

Q. Will you give your full name and address?

A. Robert Dewey, Henry, Illinois.

Q. With what business are you associated?

[fol. 667]- A. W. W. Dewey & Sons, Inc., buying and selling grain, shipping grain.

Q. What is your business with W. W. Dewey, Inc.?

A. I am manager of the river loading plant at Henry, Illinois.

Q. Are you also an officer of the corporation?

A. I am secretary of the corporation, stockholder.

Q. Will you describe the river facilities of W. W. Dewey?

A. At Henry?

Q. Tell us where you have facilities first, please.

A. We have a river loading plant at Henry, 160,000 bushel capacity, and we also have a river loading plant at Pekin.

Q. How would you describe your elevator at Henry? Would you call it a subterminal elevator or a country elevator?

A. I think we would be classed as a subterminal elevator because we do buy from other country elevators.

Q. Is your elevator larger than the ordinary country elevator?

A. I think it would be considered somewhat larger than the ordinary country elevator.

Q. How long have you had the elevator, river elevator, at Henry?

[fol. 668] A. Since 1940.

Q. Where do you sell corn from your Henry elevator?

A. Well, we sell into Chicago, and some of our grain goes south.

Q. Over the years how would your volume north and south on the river compare?

A. I think over a period of years it would probably average out about half and half.

Q. Does that vary from year to year?

A. Yes, it does. According to the market, there are times when south is not in the market, and we have no opportunity to go that way.

Q. Is the Chicago market and the movement to Chicago important to your operation at Henry?

A. It is very important to us because it gives us a continuing market where we always have an outlet, through the south, as I mentioned before, it is kind of an off and on proposition. At times you can move considerable volume that way, but there are quite a few times when you can't move anything.

Q. From whom do you buy corn at your Henry elevator?

A. We buy from farmers in what we consider our normal trade area.

Q. What would that embrace?

A. Well, a territory halfway to the nearest elevator [fol. 669] in every direction.

Q. And just roughly what would that be?

A. Well, to the west would be about eight miles, south about five, north about three, and to the east, six or seven.

Q. Do you also buy from country elevators?

A. Yes, we do.

Q. Do you buy substantial quantities of corn from country elevators?

A. A good share of our volume is originated from country elevators.

Q. Is it necessary for you, in the operation of your river elevator at Henry, to buy from country elevators?

A. In operating a river loading plant we have to accumulate grain in substantial volume, barges run from 25 up to 50,000 bushel, and at times we have to have room to accumulate several barge loads because of the unavailability of transportation. Consequently, our facilities are of substantial size for—rather larger than a regular country elevator, and in order to get the volume that we need and to justify an elevator of that size, we find it necessary to buy from country elevators.

Q. I understand you feel that an elevator of that size is necessary to have a river operation because of the substantial size of barge.

[fol. 670] A. We couldn't operate our business with any less.

Q. Are you familiar with the issues in this proceeding in which the New York Central is seeking Fourth Section relief in the 5½ rate in Kankakee Belt West from Kankakee and shipment beyond?

A. Generally I am, yes.

Q. Do you oppose or support the application of the New York Central?

A. I oppose it.

Q. In your purchases of corn for your Henry elevator have you bought from country elevators on the New York Central?

A. Prior to the inception of the 5½ cent rate we bought what we thought was a very satisfactory volume from four stations on the New York Central.

Q. What stations are those?

A. McNabb, Priscilla, Lostant, and Milla.

Q. Since the December 15, 1956 rate change on the Kankakee Belt were your purchases from those elevators affected?

A. Quite a lot. For the period December 1955 through August 1956 we bought approximately 120,000 bushel from those four stations, and in the like period in the next year, that would be December of 1956 through August of 1957, that volume was cut to approximately 15,000. From [fol. 671] two of those stations, one that we had bought

about 40,000 bushel from the year before, we bought nothing, and another, just a very small amount.

Q. Do you feel that your operations at your Henry river elevator are adversely affected by this rate on the New York Central?

A. Yes, to the extent that we are losing that volume of business.

Q. Do you feel that you will be affected in your purchases from other points not on the New York Central in the future?

A. Well, we have—I know of several instances where grain has moved to New York Central loading points from customers that we ordinarily buy some grain.

Q. Do you feel that this will increase in the future?

A. If this rate stays the same, I feel that it will increase, and other stations that we buy from will, in order to protect themselves, take steps to either make arrangements to load through plants on New York Central points or put up temporary facilities of some kind to load grain.

Q. And this tends to draw the grain to the New York Central rather than to the river through your house.

A. That's right.

Mr. Freeman: That is all.

[fol. 672] Mr. Chartrand: May I ask a question?

By Mr. Chartrand:

Q. Going back to the time when you did business with McNabb, Priscilla, Lostant, and Milla, did those elevators located on the New York Central truck from those elevators over to your elevator on the river?

A. Some of it was trucked from the elevators, I believe, and some of it moved direct.

Q. Do you have any idea as to—

A. No.

Q. Would you say of your general business a goodly portion is trucked from other elevators to your elevator?

Mr. Murphy: He already stated he didn't know, counsel. I object to the question.

Exam. Dahan: Objection overruled.

Mr. Chartrand: I am talking about—excuse me.

The Witness: Would you—

Mr. Chartrand: If you know.

The Witness: What was that question, again?

(Question read.)

The Witness: Well, a good part of it is and a good part moves direct, but I don't know what percentages.

By Mr. Chartrand:

Q. Of the truckers that do this trucking, do they have a different rate for hauling from the farm to your elevator than from another elevator to your elevator?

[fol. 673] A. That I really don't know. We don't contact the truckers ourselves at all.

Q. You don't pay the trucking charges.

A. No.

Mr. Chartrand: Thank you.

Cross examination.

By Mr. Murphy:

Q. When you buy direct from the farmer in what you characterize as your normal trade area, the farmer bears the trucker costs to your elevator?

A. That's right. We buy it delivered to the elevator.

Q. All your bids, your river bids, are for corn in trucks at your elevator.

A. That's right.

Q. And you take care of the process of elevating it out of the truck into your elevator, is that correct?

A. That's correct.

Q. Is that the practice of all elevators in so far as—

A. I believe it is.

Q. Corn that you buy from the farmers in your normal trade area does not move through an elevator prior to reaching your elevator, does it?

A. No, not that we buy direct from the farmer it doesn't, no.

Q. Do you ship by Mechling Barge Line?

[fol. 674] A. We ship some by Mechling, yes.

Q. When you sell corn what is the basis for your sale? Is it in barges—if you were selling it at Chicago, would it be in barges at Chicago?

A. Usually f.o.b., Chicago, yes.

Q. That is in barge.

A. F.o.b. Chicago—no, usually it is in the elevator. Is that right?

Q. Did you ship more corn north on the river in 1957 than you did in 1956, sir, from Henry, that is?

A. No. I think our volume was some less, although it should have been larger on account of the larger corn crop.

Q. You don't know for sure.

A. No.

Q. Was your volume through your elevator greater in 1957 than in 1956?

A. Yes; we had a larger volume.

Q. Was that true for the first six months of the year also?

A. I don't have the figures for the first six months, but we had a larger crop to handle, and our volume was some larger.

Q. Would you tell us without divulging any secrets what your volume was during 1957?

[fol. 675] A. On corn?

Q. Yes. Unless that is a trade secret.

A. Approximately a million bushel.

Q. Are you clear on whether or not you sell it f.o.b. barge at Chicago or f.o.b. elevator?

A. Well, we have to pay the trimming charge. That is the reason I said it was f.o.b.—

Q. But that is the only charge in addition to the barge rate, is that right?

A. That's right. Well, there are weighing and inspection charges. Freight, weighing, inspection, and trimming.

Mr. Murphy: Thank you. That is all I have.

Mr. Freeman: I just have one question in response to the questions that were asked.

Redirect examination.

By Mr. Freeman:

Q. The volume through your elevator in 1957, you said, was somewhat greater than 1956. Does that mean that more went south in 1957 than in 1956?

A. Yes.

Q. You are speaking of corn.

A. That's right.

Mr. Freeman: That is all.

Exam. Dahan: You are excused.

(Witness excused.)

Mr. Freeman: Mr. Cunningham.

[fol. 676] Mr. Hayes: While the exhibits are being distributed, we might save a little time. Counsel for the New York Central asked me for Mechling's figures of corn, Joliet to Chicago, in certain periods this morning. In tons, 12/15/55 to 8/28/56, 28,785.53 short tons. From 12/15/56 to 8/28/57, 24,942.23 short tons.

Mr. Murphy: Thank you, Mr. Hayes.

Exam. Dahan: You may proceed, Mr. Freeman.

J. H. CUNNINGHAM was sworn and testified as follows:

Direct examination.

By Mr. Freeman:

Q. Will you state your full name and address.

A. J. H. Cunningham.

Q. By whom are you employed, Mr. Cunningham?

A. Cargill, Inc.

Q. What position do you hold with Cargill?

A. I am Chicago manager of Cargill. This competition is going to be bad with my bad throat and that thing going, so you will have to bear with me. I am also supervisor of our river elevators.

Q. How long have you been employed by Cargill?

A. About 22 years.

Q. What positions have you held with Cargill in the past?

[fol. 677] A. I started with Cargill out in Seattle, Washington as the manager of an elevator and merchandiser in 1936. I moved back to Ottawa, Illinois in late 1942, became manager of our first rural elevator which started operating in 1943. I moved from Ottawa to Chicago in 1945 after being in Ottawa about a year and a half. I came to Chicago as assistant to the manager and also as supervisor of our river facilities, and in 1954 I became manager of the Chicago office.

Q. What is your responsibility as manager of the Chicago office and supervisor of the Illinois River terminals?

A. Amongst other duties I am responsible for the purchase and sale of grains, including corn, in Chicago. I am also responsible for the price that we pay for grain and the distribution of the grain at our river points and the direction of the grain.

Q. Are you familiar as part of your regular duties with the buying and selling of grain in Chicago and in northern and central Illinois?

A. Yes, I am.

Q. And with the marketing of grain in the east?

A. Right.

Q. In what business is Cargill engaged?

A. Cargill are buyers and sellers of grain, storage of [fol. 678] grain, processing of grain, all markets, all grains.

Q. Does Cargill handle corn?

A. Cargill does handle corn.

Q. Does Cargill own and operate elevators on the Illinois River?

A. Yes, we do.

Q. Where are those elevators located?

A. We have four river elevators located at Spring Valley, Ottawa, Morris, and at Lockport, Illinois. With the exception of Morris, which is 80,000 bushels, the other three are 100,000 bushel capacity elevators.

Q. Would you describe those elevators as subterminal elevators or as country elevators as those terms are ordinarily used?

A. Definitely subterminal elevators. They are built of concrete, reinforced steel and concrete construction, and they are built for the fast handling of grain in large quantities.

Q. Do you have a picture of one of your Illinois River elevators?

A. Yes, I do.

Mr. Freeman: May that be marked for identification?

Exam. Dahan: It may be marked for identification as Exhibit Number 36.

(Protestant's Exhibit No. 36, Witness Cunningham, was marked for identification.)

[fol. 679] By Mr. Freeman:

Q. Will you indicate just briefly what that picture shows?

A. This happens to be a picture of our elevator at Lockport, Illinois, shows the structure of the elevator, the loading gallery, and this picture shows a loaded barge sitting in front, a series of barges, I might say.

Q. Are your Illinois River elevators served by rail?

A. No, we have no rail facilities at any of our river points.

Q. How long has Cargill operated its elevators on the Illinois River?

A. We started our operation in Ottawa in 1943.

Q. Does Cargill own and operate an elevator in Chicago?

A. Yes, we have a terminal elevator in Chicago.

Q. Would you describe that elevator briefly?

A. Our Chicago elevator has a storage capacity of 18,000,000 bushels. Its facilities are equipped to unload grain, including corn, by rail, by barge, by truck, and by vessel—boat. We also re-ship by the same methods in all cases.

Q. Would you describe your Chicago River elevator as a terminal elevator?

A. Our river elevator?

Q. Your elevator in Chicago.

A. Chicago is definitely a terminal elevator.

[fol. 680] Q. How long has Cargill operated its Chicago elevator?

A. Since 1935.

Q. Will you describe the method and the nature of Cargill's operation of its Illinois River elevators and its Chicago elevator?

A. Well, we look upon our river elevators as a part of our Chicago operation; in other words, we look on them as a unit. The river elevators are put there by Cargill to supply Chicago with grains necessary to carry on a terminal operation. There are times also when our grain procured on the river, including corn, will be diverted to other terminal elevators of Cargill which are located in the south.

Q. How do you buy and from whom do you buy corn from your Illinois River elevators?

A. We buy 100 per cent from country elevators. We do not buy it from the producer.

Q. What is the operation of your Chicago elevator and your Chicago merchandising business so far as grain coming from the Illinois River? Where does the grain go, for example?

A. The grain comes into Chicago—speaking of corn specifically now—

Q. Yes, sir.

A. The grain is brought into Chicago, unloaded, put in [fol. 681] storage. If it is corn that needs to be reconditioned, such as grind and so forth, we have facilities for doing that. The corn is loaded out and merchandised east of Chicago. It is held in storage against satisfaction of Chicago delivery market. In some cases it is sold locally to processors in this area. That is true not only of corn but all the grains we handle.

Q. Are you familiar with the issues in this proceeding?

A. Yes, I am.

Q. Have you prepared or caused to be prepared under your direction an exhibit which shows in part the effect of the reduced rates on Cargill's volume at its Illinois River elevators as a result of the reduced rate on the Kankakee Belt?

A. Yes, I have.

Mr. Freeman: May that be marked, Mr. Examiner?

Exam. Dahan: It may be marked for identification as Exhibit Number 37.

(Protestant's Exhibit No. 37, Witness Cunningham, was marked for identification.)

By Mr. Freeman:

Q. Will you explain what that exhibit shows?

A. This exhibit shows Cargill corn purchases at Morris, Ottawa, and Spring Valley from origins south of the Illinois River during the periods December 15, 1955 to [fol. 682] August 31, 1956, and also December 15, 1956 to August 31, 1957. The first column, at Morris we received 315,539 bushels; at Ottawa, 819,950 bushels; at Spring Valley, 496,603 bushels, giving us a total grain—

Exam. Dahan: It won't be necessary to read the exhibit. I guess the exhibit will read for itself.

By Mr. Freeman:

Q. This shows a substantial reduction of corn, does it not?

A. It shows a substantial reduction during these two periods, yes.

Q. Does the reduction shown on Exhibit 37 fully portray the effects of the December 15, 1956 rate reduction?

A. No, it definitely does not.

Q. Why is that, Mr. Cunningham?

A. Well, I think that one of the main reasons is that, as has been expressed before here, we had a much larger corn crop in 1956 as opposed to 1955, as a matter of fact, it was 86 million bushels larger, and for that reason we should have expected more rather than less corn in those two periods, in 1957 as opposed to 1956. Also, the 5½ cent rate, when first came into being, was confined to the Eastern Trunk Line Territories, but in June—June 28—there was a new filing which extended them to CFA, which helped to enhance the procurement of grain. I think also the fact that [fol. 683] the rate was slow to become known, which I think was also brought out here previously today, has had its effect. As they get more used to it, the thing will become more and more aggravated.

Q. Have you had an opportunity to develop data which show the comparative cost of moving corn via the Kankakee Belt and via the Illinois River to a common market, to destination territory here involved?

A. Yes, I do have some figures on that.

Q. Would you give us your figures?

A. So that you can follow me, I have taken a point, namely Missal, on the New York Central, and I have also taken one of our points, namely Ottawa, which is our central point, being between Spring Valley and Morris, as my jumping off points. First I will talk about the rail rate on the New York Central, and I will bring it to a common point, namely New York. The freight to Kankakee—I will also talk in terms of hundredweight in all cases. Rate to Kankakee, $51\frac{1}{2}$ cents a hundred. Kankakee rate to New York is $53\frac{1}{2}$ cents, given us a total of 59 cents a hundred.

Taking Missal, trucking cost to Ottawa, 5.36 per hundred. River transfer, 2.68 per hundred.

Q. What was that item?

A. River transfer. Some people call it elevation.

[fol. 684] Q. You mean from truck to barge?

A. Yes, that's right. In the grain trade we normally refer to that as elevation. There are traffic men here who may not understand that.

Q. Is this a necessary step in getting—

A. Oh, definitely. The barge freight to Chicago, 4.95. We have stevedoring in Chicago, 1.15.

Q. What does that consist of, Mr. Cunningham?

A. When a barge comes into Chicago for unloading, the union or the Chicago Grain Terminals Association might, sometimes we will call stevedores, here they call themselves trimmers and shovelers, but it is the same thing—they board a barge at our elevator, a crew of 12 to 14 men, and when the marine leg goes into the barge, they enter the barge and by means of automatic shovels and brooms and sweeps, they keep the grain moving to the leg until the barge is empty, and for that we pay, on corn, \$6.50 per thousand bushels. Breaking that down to the hundredweight, it becomes 1.15.

Q. Is that operation comparable in any way to what has been described here as trimming a rail car?

A. I think there is no comparison at all. A rail car more or less self trims itself. You put a pipe in a rail car and direct your flow to both ends, and your car is filled up.

[fol. 685] Q. Then it is your experience in either the loading or unloading of a grain car, that a man enters the grain car?

A. It is very seldom that a man has to enter a rail car unless he is at some country elevator that has no drop at all. If they have any drop at all, a rail car of corn will load by itself pretty much.

Q. When you say "drop," you mean drop from a country elevator.

A. That's right, comes down into the shoveling spout.

Q. Will you proceed?

A. Then we have the general term here of elevation of grain at Chicago, I will call it Chicago transfer, if you will, which is 4.01 per hundred.

Q. That is transfer from what? You are talking now about from a barge to a rail car?

A. This is what we call elevation, getting grain from our elevator out into a boxcar.

Q. This is a necessary step in getting grain—

A. If you want to get it into a boxcar, you had better do it. We also have an outbound inspection on grain of 0.45. Then we also have the rail rate to equalize this from Chicago to New York of 53½.

Q. You haven't included an outbound inspection along the Kankakee Belt. What is your reason for excluding that and including it on the river operation?

[fol. 686] A. Well, you will notice that I did not include inbound elevation at Chicago, either, which is necessarily a part, but—

Q. You mean inbound inspection?

A. Inbound inspection from the barge, which is necessary, but I have not included that because it, I think, will offset an inbound inspection at Kankakee, and as far as outbound is concerned, I don't think they put the inspections on processed corn.

Q. This comparison, if I understand it, starts with grain in an elevator at Missal, which is on the New York Central. Would the same comparison hold if you took the grain not

at Missal but within the Missal elevator's trade territory out on a farm? Would your same figures hold?

A. With slight differences it would still hold. In order for—in other words, when we give a country elevator a bid for corn, whether he be on the New York Central or wherever he may be located, we do not know at the time we buy the corn from him where it is coming from. He may load it out of his elevator, he may have a farmer bring it in from some point within his territory, so as far as we are concerned, the cost to us is the same.

Q. Have you had an opportunity to review Mr. Graves' [fol. 687] Exhibit 25 which was introduced last week in this proceeding?

A. Yes, I have. I have it in front of me here. I would like to point out, first, that I don't think we finished this little deal here.

Q. Go ahead. Excuse me.

A. We have a difference here of 13.10 per hundred.

Q. You are now talking about your comparative figures—

A. Compared on the New York base.

Q. Does that reflect the disadvantage of moving grain via the river to Chicago over moving it along the Kankakee Belt, all rail?

A. That's right. It represents our additional out-of-pocket cost.

Q. Now turn to Exhibit 25, please.

A. Right.

Q. You see the data he there gives, headed "Chicago Market, \$1.15," and below that, "Barge Transportation Cost," about four paragraphs down on that sheet. Does that fairly represent the figures there shown—does that fairly represent, as you understand it, the picture of marketing grain to Chicago from the river?

A. Well, it is fine as far as it goes, but it doesn't go near far enough because there are a lot of items overlooked of which I have just—

[fol. 688] Q. Will you briefly indicate what those items are?

A. Well, there is a trucking item of 5.36, there is the cost of unloading that barge, the extra trimming or stevedoring cost in Chicago; there is the Chicago elevation and

outbound Chicago inspection that does not enter into this, to put in—to put this in a boxcar in Chicago ready to move east. So we come up with about that 13 cent difference again.

Q. In other words, many of the costs that you have pointed out in your previous comparison simply aren't reflected here.

A. I mean, Mr. Graves has taken 5½ cents from both points, and he has forgotten everything else, and we just can't forget them, because it costs us money to bring grain up through this river and put it through the elevator and put it in the same position, ready to go out in the boxcar in Chicago via water as opposed to bringing through Kankakee by rail.

Q. You have indicated some items of cost in dollars and cents. In comparing the river operation with the operation along the Kankakee Belt, are there any other items which should be given consideration in determining what a fair relationship between the two is so far as competing merchandising relationship is concerned?

A. Yes, I think I can point out a few specific reasons [fol. 689] here. The eastern buyer basically will pay a premium for what is known as natural country-run corn, and we can bring natural river corn to Chicago and put it in an elevator and reshipe it without mixing it, just as is, but it still does not carry that natural country-run flavor as far as merchandising is concerned. So any corn being sold out of a Chicago elevator has an inherent disadvantage in that respect, and another very important item is weather conditions. We have to fight fog, ice, and other conditions on the river that hold up and deter barge transportation, whereas the railroads, of course, can move practically any time, and there are many times when we have been handicapped, if we have several days of bad weather on the river, we get plugged and are forced out of business thereby because of inability to transport our grain. Another point is that on the river we must, rather than accumulate 18 to 2200 bushels, to load a boxcar, we necessarily have to accumulate barge quantities, which run all the way from—I have heard several figures today—from 25 to 50 and 30 to 40, take your choice. There are barges in all of those ranges.

We have probably more of a handling loss because grain going through Chicago facilities, to a boxcar, we have more of a shrink on invisible loss because of more handling. Also, investments in river houses are much greater than [fol. 690] country elevators. They are larger, they are built on a bigger plane, and machinery is bigger, the truck lifts are heavier and stronger, and therefore we have a bigger investment as opposed to a country elevator. Then there is also a small item, but I might mention it, namely, insurance on our barge grain coming to Chicago.

Q. That is, you have to bear the cost of insuring the grain?

A. Yes. It is not too burdensome, but it is nevertheless an added cost.

Q. The New York Central stated in its application for temporary approval, that a maximum of 6,000,000 bushels be diverted from barge to rail. Do you subscribe to that figure?

A. Is that a figure that they have picked out as being the maximum?

Q. Yes.

A. Well, all I can say, I can say definitely no to that. If the present 5½ cent rate stays in, I am afraid you will see more and more of these portable loading facilities spring up along the New York Central, even subterminals are a possibility, if that becomes a fixture. Corn is now being trucked from country elevators who are located on the various lines, such as the Santa Fe and the IC and [fol. 691] the Alton, the Q, Wabash, and so forth, to elevators on the New York Central and also portable loading rigs, and I don't think these railroads are going to sit back and let the New York Central take this tonnage away from them. We have heard a lot of disgruntlement here this afternoon along that line, so the results, I think, of this hearing are going to set a pattern for the other railroads to follow. They will probably petition for a rate—

Mr. Murphy: I will object to his testifying about what some railroad—

Exam. Dahan: Sustained.

The Witness: All right.

By Mr. Freeman:

Q. To summarize what you said to date—

A. Let me put it this way, I won't say the other railroads are going to petition. May I say "if," if you please?

Exam. Dahan: Just answer the questions of counsel.

By Mr. Freeman:

Q. Let me ask you this question, Mr. Cunningham: You foresee such effects of this rate that would mean much more than a diversion of 6,000,000 tons?

A. Yes. I can see this thing spreading and spreading to the point where other railroads, in order to compete, [fol. 692] will be crossing the Illinois River, and we have several of the railroads now crossing the Illinois River on the bias coming to Chicago, and if such a rate becomes the rate, we won't be cut off from the south only, but we will be cut off from the north, from the west, and also from right along the river banks themselves.

Mr. Murphy: This is the same thing I objected to before and it was sustained. I ask that that be stricken, that last statement.

Exam. Dahan: It may be so stricken. Just answer the question of counsel and stop right there.

By Mr. Freeman:

Q. One concluding question, Mr. Cunningham: I take it from what you have had to say and the facts which you have set forth that Cargill is in opposition to the application here sought.

A. Right.

Cross examination.

By Mr. Hayes:

Q. As a merchandiser of grain, Mr. Cunningham, has it been your observation that when one railroad puts in a depressed rate the other railroads in the area follow suit?

Mr. Murphy: I object to the question on the grounds that it characterizes the rate, and secondly, on the same grounds that I made before.

Exam. Dahan: I sustain the objection.

[fol. 693] Mr. Hayes: That is the question that I desire to ask, Mr. Examiner.

Mr. Freeman: No more direct.

By Mr. Chartrand:

Q. Mr. Cunningham, just one question. You have itemized a lot of separate factors here that are cost factors in moving it from origin to the river to Chicago and thence rail to the east, is that correct?

A. That is right. I could stop at Chicago, if you like, and also stop the other movement at Kankakee, and we would still come up with the same result.

Q. Apparently you feel that just the consideration of the published barge rate is not meeting like with like.

A. It is not telling the whole story, definitely not.

Mr. Chartrand: That is all. Thank you.

Exam. Dahan: Mr. Murphy.

By Mr. Murphy:

Q. Mr. Cunningham, you assume that there is no trucking costs in getting the corn to the rail elevator at Missal, do you?

A. Oh, I haven't said that.

Q. You have included an element of 5.36 cents on the truck costs to the river elevator.

A. I premised this on corn being in the Milla elevator. How it got there I did not go into.

Q. Well, now, if we started at a point where the corn [fol. 694] is grown or where it is stored by the producer before the bids of the country elevator or the river elevator go out, would that factor of 5.36 cents uniformly apply on the river movement and not on the rail movement?

A. I think we would have to allow some tolerances there. It would depend on the point, wherever this corn happens to be. It would depend on the market factors on any given day. I can say this, that when we put out a bid to

Milla, we will try this specific, suppose we bid Milla \$1.10, for example, delivered our elevator, and they sell us 5,000 bushels. We do not know whether his intention is to truck it out of his elevator or whether he is going to have Joe Dokes bring it in from some point on his farm. We have no way of knowing, unless the fellow voluntarily supplies that information, which they usually don't.

Q. You bid at your elevator.

A. In all cases our bid is delivered our truck. When it hits our truck we take over, unload the grain, and it is finished.

Q. And the bid by the rail buyer is in all instances in cars at the country elevator, is that right, in rail cars?

A. As far as I know, they buy track, New York Central west—I believe that is the term used for that spur line.

[fol. 695] Q. Do you discount all of the cost factors that would be involved in getting the corn from the field in through the country elevator and in to the rail car?

A. No. Let us get back to my basic—I was talking about corn in Milla when I came up with these figures. If you want to talk about corn at some other point, I would say this, that this \$1.10 we bid at Milla, if he feels that he can make more money by having a farmer haul it in, he will bid that farmer somewhat less than \$1.10 because he is going to necessarily have to have a profit. Now, what it is, we don't always know. I suppose we can say maybe it averages 1 cent and $\frac{1}{2}$ or two cents a bushel, but we don't ask that question. So therefore you get back to a market structure, if it is more profitable for him to truck from his elevator, he will. If he has the farmer at some point where he can get it, bid that farmer somewhat less, so he will have a profit, he doesn't have to touch it, he trucks it to us, he will do that. He is going to look at the dollar sign just like the rest of us.

Q. Assume that the farm was midway between Milla—is this Morris you were using?

A. Ottawa, because that happens to be our central, and I thought it was the most—

[fol. 696] Q. Suppose the farms were midway between Milla and Ottawa.

A. Yes.

Q. Wouldn't the trucking cost to the river elevator at Ottawa, operated by you, be the same as the trucking cost from the farm to Milla?

A. I would assume probably that is correct, yes.

Q. There would be the trucking cost, no matter whether it went rail or river?

A. Under present conditions that is definitely true. If we are talking about the $5\frac{1}{2}$ cent rate as opposed to the river today, we would never see that.

Q. We are just talking about the charges. Where do you get \$5.36 truck rates? How much a bushel is that?

A. Three cents a bushel.

Q. Three cents a bushel?

A. Correct. I think that has been pretty much established here from what little I have heard today, that that is probably a fair average for most of it.

Q. I thought it was established that the difference in the distance was controlling on the truck rate. The records speak for that.

A. I have told you there are some tolerances in this, depending on the trucking.

Q. Do you ever buy from country sellers who do not [fol. 697] have country elevator facilities?

A. As far as the New York Central is concerned, in that area, no. We do at Lockport buy grain from trucker merchants up north and west. We find we have an area up there where country elevators are too sparsely set to give us coverage, so we do have trucker merchants.

Q. Do you have any trucker merchants operating into Morris?

A. Not that I know of, no.

Q. Or Spring Valley?

A. No.

Q. As I understand it, you buy corn from other river elevator operators, is that correct?

A. Oh, yes, we do.

Q. Do you handle those purchases yourself, Mr. Cunningham?

A. Sometimes. Sometimes our Peoria office do a lot of buying of grain from other elevators.

Q. Is that under your jurisdiction?

A. Not particularly, no. Peoria is another branch office.

Q. I mean, the purchase of grain from other river elevators, other subterminals, does that fall under your—

A. In some cases it does, and in some cases it doesn't. It depends on the position.

[fol. 698] Q. For Chicago it would be under your jurisdiction, if you were buying it for Chicago.

A. That's right.

Q. You buy that corn on a to arrive basis Chicago, is that correct?

A. I might explain that that corn is bought in this market in two ways. There are some people who will buy corn delivered Chicago, where they will absorb the costs themselves. There are others who will buy it the other way, and it is just a matter of playing with the price, whichever way you want to buy it. If I am going to buy corn from you as an elevator operator, I can buy it from you two ways, trimming and selling for my account, and in that case I would probably bid you three-quarters of a cent less, or I could buy it trimming and shoveling your account and I would pay you more money for it.

Q. Just as a rail bidder buys it in a rail car, with that service performed.

A. That's right. I mean, you are going to either add it to or detract from, depending on how you buy.

Mr. Freeman: Did you hear his question? May that be asked? Did you hear his question? Will you read his question?

(Question read.)

Mr. Freeman: What does "that service" refer to?

[fol. 699] The Witness: Rail purchase has nothing to do with stevedoring because there is no stevedoring involved in a rail purchase.

By Mr. Murphy:

Q. I didn't mean to intend that.

A. I didn't, either.

Mr. Freeman: I wanted to know what the antecedent of "that" was.

By Mr. Murphy:

Q. You indicate in your Exhibit Number 37 a decline in your purchases from origins south of the Illinois River. How did your purchases in other areas trend during that period?

A. I am glad you asked that question. Origins south of the river, as we mentioned for the period 1955-56, was 1,632,000. The origins, for the like period the next year, were—we were short 460,000 bushels as determined by Exhibit 37. North of the river during these same periods, 55-56 was 1,896,000. I am leaving off the odd pounds. For 1956-57 it was 2,256,000. So we were long on the north side by about 260,000 bushels, while we were short on the south side by about 460,000.

Q. How did your total grain business from Illinois River ports to Chicago compare during 1956 versus 1957?

A. Are you still talking about the same eight-month periods in all cases?

Q. Yes, that or the full year, whichever you have most [fol. 700] conveniently.

A. Well, I can say this, without checking, that there was more corn—I think that has been established here—unloaded in the Chicago market in 1956-57 period as opposed to the 1955-56, and the only reason I can—the way I can give you a rebuttal on that is that that was in spite of us getting less corn from south of the river, so we necessarily had to pick that up as a gain from the north, because we did unload more corn, but we got less from south of the river during that period.

Q. How was your movement of other grains?

A. Very good.

Q. From those ports?

A. From all ports.

Q. Morris, Ottawa, Spring Valley? Did that increase or decrease?

A. I don't know as I have that figure. I devoted my efforts to corn principally in this case. I don't believe I would have that at the moment.

Mr. Murphy: I wonder if we could have that, counsel, before the hearing is closed.

Mr. Freeman: Excuse me, what is the request?

Mr. Murphy: The movement of grains other than corn from Morris, Ottawa, and Spring Valley to Chicago.

The Witness: What bearing would that have?

[fol. 701] Mr. Freeman: I don't know. Would this cause you any substantial difficulty? Are these records available?

The Witness: No, but I don't like to have the world know what is long and short, either.

Mr. Freeman: Off the record, please.

Exam. Dahan: Very well.

(Discussion off the record.)

Exam. Dahan: Let us have a five-minute recess.

(Short recess.)

Exam. Dahan: Come to order, please.

Mr. Freeman: If the examiner please, there is a pending request by the New York Central for data concerning grains other than corn of this witness, and I am advised by Mr. Cunningham that he cannot reveal that information without revealing his position in the market and thus we must object to the request on the ground that it is irrelevant, which it is, to the proceedings.

Mr. Murphy: Can he give it in a range?

Mr. Hayes: I join in the objection on the ground of irrelevant.

Mr. Freeman: He tells me it is not only irrelevant but for good and sound business reasons he cannot do so without revealing his position.

Mr. Murphy: I mean the range, the percentage.

Mr. Freeman: We must insist it is irrelevant, and we [fol. 702] cannot furnish it.

Mr. Murphy: I have the question pending, I believe. I think it is perfectly relevant.

Mr. Freeman: There is an objection to the question.

Mr. Murphy: In that he has talked about his elevator facilities here and pressed an implication that they weren't being used.

Mr. Legg: If the examiner please, I think the witness has already stated he doesn't know the answer to the question. The only thing pending is the request for information.

Exam. Dahan: He said he didn't want to supply it, so that is the answer.

Mr. Freeman: You may ask him one question, whether he has it here.

The Witness: I do not have the information before me.

By Mr. Murphy:

Q. Going back to your computation of expenses, do you recognize that the country elevator's charges for elevating into rail cars should be added to the mere transportation charges that you have enumerated?

A. If I understand your question correctly, you are asking if there should be an elevation charge in addition to the rail charges that I have shown from the New York Central?

[fol. 703] Q. Yes. You mentioned $5\frac{1}{2}$ cents plus 53 cents to New York.

A. Right. The only way I can answer is that I started on the basis of grain in the Milla elevator. It would cost them just as much to put it into a truck to bring it to us at the river as it would to put it in a boxcar, so I think that offsets it.

Q. We are talking about the corn at the producer's point where there is a truck charge to get it to the country elevator, is there not also an elevation charge to get it into the rail car?

A. He would have a cost to get it to the boxcar in that case.

Q. Has the effectiveness of the $5\frac{1}{2}$ cent rate caused you to increase your bids to get corn to your elevators at—

A. Yes, it has—the tendency has been to increase the bids to try to keep a bigger flow of corn coming to Chicago. But unfortunately we can't get out fast enough because—

Exam. Dahan: Don't volunteer. Just answer the question.

By Mr. Murphy:

Q. Have those higher bids been reflected down to the farmer level, sir?

A. They naturally would, yes.

[fol. 704] Mr. Murphy: That is all I have, your Honor.

OFFERS IN EVIDENCE

Exam. Dahan: Exhibits 36 and 37 will be received in evidence.

(Protestant's Exhibits Nos. 36 and 37, Witness Cunningham, were received in evidence.)

Mr. Freeman: I have one or two questions.

Redirect examination.

By Mr. Freeman:

Q. You were asked about corn halfway between Missal, your point of illustration on the New York Central, and Ottawa. Would that be outside the normal trade territory of the Missal elevator?

A. Halfway, I would presume, would be about ten miles.

Q. Would that be another country elevator's territory?

A. It very well could. I don't know what circle Missal claims to have, but the norm is between four and six miles, usually, for a country elevator. That seems to be their serving area unless they are sparsely located.

Q. If it were outside the normal trade territory of the Missal elevator, you would be buying from another country elevator, would you not?

A. It is possible. I wouldn't know. They might be competing for that same lot of corn.

Q. In the event you were buying from another country elevator between Missal and the river, would there be a [fol. 705] margin for that country elevator in the price that he gets for the corn, between the price he gets from you and the price he pays the farmer?

LEO starts here

A. We must assume that when a country elevator sells its corn from a farm, he is not going to do it for nothing, therefore, he is going to bid that farmer somewhat less than our bid.

Q. You were asked and you gave some figures for your purchases from north of the river which were greater in the period 1956-57 than they were in 1955-56.

A. Yes.

Q. You previously referred to the fact that there was a larger corn crop available in 1956 than 1957. Is that the reason that you give for this increase north of the river?

A. Well, we must assume that that was the difference because we still enjoyed the same pattern of accumulating corn north of the river in both seasons.

Q. Would you expect if this rate would not have been in effect that you would have had larger purchases rather than smaller from south of the river?

A. Right.

Mr. Freeman: That is all.

Exam. Dahan: Did you have a question?

Mr. Hayes: I had a question I thought I might ask. [fol. 706] May I inquire with Mr. Freeman?

Exam. Dahan: Mr. Chartrand.

Mr. Chartrand: I will ask one question of Mr. Cunningham in response to something Mr. Murphy asked.

Recross examination.

By Mr. Chartrand:

Q. You did not include in your figures via rail the transfer at the rail elevator into the boxcar. What commission or handling charge does the rail elevator usually charge for that?

A. Are you speaking of corn in a country elevator on the New York Central?

Q. Yes, going into a boxcar. What commission or handling charge does he usually charge for that?

A. I am afraid he will have to supply that question. I can't answer for the country elevator.

Q. Well, some charge is made for handling it.

A. We certainly know that they don't operate just for fun.

Q. I believe you indicated that some charge is made by the interior elevators when they deal with the river in dealing with the farmer.

A. Let me state it again. We bid \$1.10 for corn. We don't know whether he is going to truck it to us from his elevator or buy it from some farmer at a point. We don't

know that. We assume if he trucks from the elevator that [fol. 707] he has some profit in it, otherwise he will put it in a boxcar and send it on.

Q. In each instance those men withhold something—

A. If he can make more money by buying at an intermediate point and bringing it to us than he can shipping his corn by rail, he will do that.

Q. In each case they hold something for the service rendered?

A. I would think so. I know I would.

By Mr. Legg:

Q. When you say "in each case," are you referring on the one hand to the New York Central elevator operator delivering the rail car and on the other, the country elevator delivering to the river elevator?

A. I don't think it matters. I don't think it matters at all. That corn is going to cost us \$1.10 delivered to the river regardless of by what means it comes there.

Q. You expect normally; though, that both elevator operators, whether they are on the New York Central—

A. You say both elevator operators. What two?

Q. One on the New York Central and one someplace else, selling to the river elevator—

A. Now I am with you.

Q. —will keep a commission to cover the cost of their own service.

A. Right. That is their mark-up.

[fol. 708] By Mr. Murphy:

Q. You indicated that a point midway between Missal and Ottawa would be ten miles from Missal.

A. I just picked that. I am not too sure. I assume it is about twenty miles. Maybe I am wrong.

Q. Did you mean to indicate that the competitive effect of the New York Central's rate was felt only five miles from the New York Central?

A. I didn't say that.

Q. Do you know how far it has been felt?

A. I believe that that has been answered by some of these country elevator boys.

Q. You don't know yourself.

A. No, I haven't been down there policing that one. I haven't been down there measuring the miles.

Q. Now, on the question asked by Mr. Legg, I had the impression earlier that you were comparing movements to the river or movement by rail when you indicated that you assume that the country elevator operator would have some profit and some element in there to cover his handling cost. Do you think that would be true also?

A. Would you restate that again because I didn't quite follow you?

Q. You assume that on a movement on grain bid for rail movement that the country elevator operator would have an [fol. 709] element in there for his elevation and his handling charges and his profit, too.

A. Oh, yes. Surely.

Mr. Murphy: Thank you.

Exam. Dahan: You are excused.

(Witness excused.)

Exam. Dahan: Next witness.

Mr. Freeman: Mr. Adams.

THOMAS ADAM was sworn and testified as follows:

Direct examination:

By Mr. Freeman:

Q. Will you state your full name and address?

A. Thomas Adam, Chicago, Illinois.

Q. By whom are you employed?

A. Glidden Company, Chemurgy Division.

Q. What is your position with the Glidden Company, Chemurgy Division?

A. Division traffic manager.

Q. How long have you held that position?

A. Six years.

Q. What are your responsibilities?

A. Supervision of transportation matters to and from the processing plants and grain elevators of the Chemurgy Division.

[fol. 710] Q. In what business is Glidden Company, Chemurgy Division thereof, engaged?

A. Soybean processing and terminal grain elevator operations at several midwestern locations.

Q. Do you buy and sell corn?

A. Yes.

Q. Where are the Chemurgy Division's facilities at which corn is normally handled?

A. We occasionally handle corn at the soybean processing plants, but for all practical purposes our main corn handling facilities are at our Chicago terminal on the south side, located at Calumet River, and two river elevators, one located at Lockport, and one at Seneca, Illinois.

Q. What is the capacity of each of the elevators you just mentioned?

A. I will ignore the soybean processing plants since they are not in question here. Our terminal elevator at South Chicago is located on the Calumet River and has a storage capacity of $6\frac{1}{2}$ million bushels. It is a federally licensed public warehouse with facilities to ship and receive grain via rail, truck, and water. This elevator was built in 1955 and 1956. In connection with this terminal elevator we have a subterminal elevator at Lockport, Illinois and another at [fol. 711] Seneca. Each of these are of 200,000 bushels capacity with facility to receive only by truck and ship via barge. Both of these river subterminals were also built at the same time as the Chicago terminal, 1955-1956.

Q. Will you describe briefly the manner in which the grain elevators on the Illinois River and at Chicago are used in your corn buying and selling and handling operation?

A. When Glidden decided to enter the terminal grain elevator operations at Chicago in 1955, the Illinois River subterminals at Lockport and Seneca were included as essential parts of this operation. The size of the Chicago terminal took into consideration the anticipated purchases through the subterminals. At the Chicago terminal we purchase free corn to arrive via rail, truck and barge. The

purchases are from country elevators, grain commission merchants, and others, but never from farmer growers direct. As a public elevator we also handle corn and other grains for elevation or elevation and storage via rail, barge, or water. At the river subterminals we purchase truck grain from country elevators adjacent to the river for elevation and loading to barges for shipment to our Chicago terminal elevator or for sale and shipment to other destinations southbound and down river. Corn is then merchandised from the Chicago terminal and resold either [fol. 712] immediately or at a later date to eastern and other destinations.

Q. Are your Chicago houses public elevators?

A. Yes.

Q. Licensed under the U.S. Warehousing Act?

A. Yes.

Q. You say that you buy only from country elevators rather than from farmers. Is that necessary in your operation?

A. A subterminal elevator on a river and a terminal elevator at a terminal point requires volume to operate. Buying from farmers would limit the volume that you could acquire as it would antagonize your regular source of supply, which has for years been the country elevator.

Q. So that you feel in order to get the volume necessary to operate a subterminal house you must buy from country elevators.

A. Established grain country elevators.

Q. Has the reduction on the Kankakee Belt to $5\frac{1}{2}$ cents been felt in your operations on the Illinois River?

A. Our short period of operation at the river elevators does not give us sufficient comparative data to present here, and although we have only been in operation a comparatively short period of time, the receipts of corn from the [fol. 713] area of the Kankakee Belt Line have definitely fallen sharply in what little experience we have had during the periods when the $5\frac{1}{2}$ cent rate to Kankakee was in effect.

Q. You mean because your elevator was constructed just shortly somewhat before this rate went into effect, you

don't have a before and after story as some of the other witnesses have had?

A. That is true.

Q. Do you have data which shows the cost of bringing corn via the Illinois River into Chicago for destination east as compared with the cost along the Kankakee Belt?

A. Yes. We ran a check to see what our costs would be comparative to rail. In going into the cost via truck, barge, as in Mr. Cunningham's testimony, the first item of transportation cost involved would be the trucking charge from the country elevator to the river elevator, of a nominal 3 cents, per bushel, that is.

Q. What is your next item of expense?

A. A second item would be the river elevation of $1\frac{1}{2}$ cents per bushel, for unloading, weighing, elevating, and loading to the barge. Then as follows, the actual barge rate from our Seneca elevator is 94 cents per ton or 2.63 cents per bushel. Upon arrival at the Chicago terminal there is a barge to rail elevation or transfer of $2\frac{1}{4}$ cents per bushel, [fol. 714] plus a barge stevedoring or trimming cost of a figure ranging anywhere from $6\frac{1}{2}$ to \$9.00 per thousand bushels. In our case it generally averages \$7.50 per thousand or $\frac{3}{4}$ of a cent per bushel. This comes to a total of 10.13 cents per bushel or approximately 18 cents per hundredweight as compared to the $5\frac{1}{2}$ cent Kankakee rate.

Q. Does that reflect the disadvantage of your operation by river as compared with the operation via the Kankakee Belt of corn to be marketed in the east in competition with corn from the Kankakee Belt?

A. There are other minor disadvantages that can be measured in the operations of a subterminal terminal. We take ownership of the grain at the river elevator and therefore assume any shrink losses in transit from the truck to the river terminal or to the terminal elevator at Chicago. The barge rates to Chicago do not include common carrier liability, and we therefore must arrange for and pay premiums on cargo and marine insurance. At times weather condition, such as fog, ice, low water, make barge movements and availability of equipment uncertain.

Q. In the light of what you have just said does the Glidden Company, Chemurgy Division, support or oppose the

application of the New York Central for Fourth Section [fol. 715] relief in this proceeding?

A. We oppose the application.

Mr. Freeman: That is all the questions I have.

Cross examination.

By Mr. Murphy:

Q. Are you aware of the fact that the barge shipments from Seneca, Illinois for the first eight months of 1957 were greater than for the first eight months of 1956?

A. From our elevator?

Q. From Seneca.

A. We are not the only elevator at Seneca. We weren't in operation in 1956.

Q. When did that elevator go into operation?

A. Around August or September of 1956. We started to move our first grain then.

Q. Were your movements from Lockport greater or lesser during the 1957 period than 1956?

A. There is only 30 days' difference between the operation of both elevators. Lockport and Seneca were built simultaneously. I think August was the first at Lockport and September the first at Seneca. If I had those figures, I would have presented them.

Q. Have you made any rail movements to Chicago to your terminal elevator from this area in the recent months?

[fol. 716] A. Have we made any movements?

Q. Yes.

A. Not that I know of, no. We buy grain at Chicago.

Q. You don't buy grain at the country and have it shipped to Chicago by rail.

A. No.

Q. Do you process corn in Chicago?

A. No. We are soybean processors only.

Q. You calculated some charges here which you said would be 18 cents a hundredweight.

A. Yes.

Q. On the truck-barge. Did you compare those with the 5½ cent rate?

A. Yes.

Q. You have an elevation charge here for getting the corn from a truck into the barge.

A. Yes.

Q. Isn't there an element for elevation from a truck into a rail car also?

A. As was brought out previously, there are different ways of looking at it. When you are buying from a country elevator you are assuming—we are assuming in this cost analysis anyway—that it is in the country elevator and there has had its country elevation already.

Q. Do you assume that that is a fact in all cases?

[fol. 717] A. We have no other basis to go on, other than we know that the country elevator who sells to us has the option of selling from his elevator grain that he already has purchased or shipping directly from the farmer. Now, we have no way of knowing whether he changes his margin in either case.

Q. What are the country elevators from which you buy corn at Ottawa?

A. I do not have facts on that.

Q. Do you know what the country—do you know what the names of the country elevators from which you buy corn at Lockport are?

A. No. Whatever I would say would be hearsay. I am not in charge of the country elevator operation, but I think Lockport is mainly north of the river rather than south.

Q. Do you recognize there has to be some trucking cost to get corn from the farm to the rail elevator as well as to the river?

A. Oh, yes.

Q. That would be a charge that could be properly added to the rail rate.

A. We were comparing in our cost study here a bid in cars at the elevator as compared to a bid in truck at the river elevator.

[fol. 718] Q. You weren't comparing bids at all, were you?

A. Well, positions of grain, I should say, cost.

Q. Let me ask you about the barge rate. Does that apply on corn in barges?

A. I beg your pardon?

Q. Does the barge rate which you referred to apply on the corn in barge?

A. Naturally, yes.

Q. Then to that you say must be added the elevation into the barge?

A. Yes.

Q. Are you familiar with the rail rate?

A. From—5½ cents, yes.

Q. Does that apply on corn in rail cars?

A. Yes.

Q. So anything that goes before that must be added to both the barge rate and the rail rate.

A. Yes.

Q. Do you buy barge loads of corn from other river elevators, other than those that you operate?

A. Yes.

Q. What is the basis for buying that corn, on a to arrive basis at Chicago?

A. CIF Chicago, cost, insurance, and freight delivered in barges.

[fol. 719] Q. If you bought corn for a rail movement to Chicago would you have an elevation into your elevator at Chicago, from the rail car?

A. That would be our option. We can sell it off track also.

Q. But if you were putting it into your elevator, market conditions vary, you would have to elevate it from the rail car into your elevator, is that correct?

A. If we decided to put it in storage, yes, but that is not necessary.

Q. Are you familiar with the purchase of grain in so far as the actual practice of buying the grain, or do you have someone else in your company that handles that?

A. I was a grain buyer for three years, prior to being traffic manager. I could answer some questions.

Q. Is it true that corn, in this part of Illinois with which we are concerned, is generally bought for rail delivery on the IP basis?

A. Yes.

Q. That being the lowest freight charge that you could compute in Chicago?

A. Chicago IP.

Mr. Murphy: Thank you. I believe that is all.

Mr. Freeman: I just have one question.

[fol. 720] Redirect examination.

By Mr. Freeman:

Q. You testified that you bought solely from country elevators. Does it make any difference whether the country elevator is located on the New York Central or some place, does the country elevator get a commission or spread between the price that you pay the country elevator and the price that he pays the farmer?

A. Certainly. I assume he does, like Mr. Cunningham.

Q. That is a commission or margin for his handling?

A. Right.

Q. That is in addition to the truck cost to the river?

A. I can't answer that. I don't know. I would say so.

Mr. Freeman: That is all I have.

Exam. Dahan: You are excused.

(Witness excused.)

Exam. Dahan: Mr. Erickson, did you have a witness you wanted to put on this morning that was unavailable?

Mr. Erickson: No. That was Mr. Farlow who has filed his appearance.

Mr. Freeman: I have run out of witnesses for today.

Exam. Dahan: We will recess until 9:30 tomorrow morning at the same place.

(Whereupon, at 4:45 p.m., a recess was taken until 9:30 a.m., Tuesday, February 4, 1958.)

[fol. 723] PROCEEDINGS—February 4, 1958

Exam. Dahan: Come to order, please.

Mr. Freeman: I call Mr. McClintock.

J. O. McCLINTOCK was sworn and testified as follows:

Direct examination.

By Mr. Freeman:

Q. Will you give your full name and address?

A. My name is J. O. McClintock. I reside at 426 Forest Avenue, Oak Park, Illinois.

Q. By whom are you employed, Mr. McClintock?

A. Illinois Grain Corporation.

Q. What is your position with the Illinois Grain Corporation?

A. Vice president in charge of merchandising grain.

Q. How long have you held that position?

A. Five years.

Q. With whom were you employed before you were employed by Illinois Grain Corporation?

A. I served as an executive officer of the Chicago Board of Trade.

Q. What were the dates in which you were executive vice president?

A. 1948-52 inclusive, five-year period.

Q. Were you president of the Chicago Board of Trade?

[fol. 724] A. In 1947.

Q. Prior to that time have you been engaged in grain merchandising in the Chicago area?

A. I have.

Q. And for how long approximately?

A. Prior to 1948?

Q. Yes.

A. Fifteen years.

Q. What business is the Illinois Grain Corporation engaged in?

A. They are engaged in the buying and selling of grain.

Q. What kind of a corporation is the Illinois Grain Corporation?

A. It is a cooperative.

Q. What is its membership composed of?

A. Individuals, farmers, farmer organizations, country elevators.

Q. Could you describe Illinois Grain Corporation's facilities for handling corn, with particular reference to its facilities on the Illinois River and at Chicago?

A. They operate a 6½ million bushel elevator in Chicago on deep water. We own and operate four elevators on the Illinois Waterway, located at Morris, Hennepin, Lacon, and Havana.

Q. Are your elevators on the Illinois River served by rail facilities?

[fol. 725] A. I believe two of them are; two.

Q. And two of them are not.

A. That is correct.

Q. Are you familiar in general with the issues in this proceeding?

A. Yes.

Q. And you are familiar, of course, with the rate reduction on the Kankakee Belt by the Illinois Central on December 15, 1956—New York Central.

A. Correct.

Q. Have you prepared an exhibit showing the effect of the reduction on one of your river facilities?

Mr. Murphy: I object to the question on the grounds that the exhibit does not show what counsel asked for.

Mr. Freeman: All right, I will rephrase the question, if you please. I am trying to shorten this matter this morning.

By Mr. Freeman:

Q. Have you prepared an exhibit entitled "Corn Receipts at Illinois Grain Corporation Elevator at Morris, Illinois," et cetera?

A. Yes, I have.

Mr. Freeman: May that exhibit be marked, please?

Exam. Dahan: It may be marked for identification Exhibit Number 38.

[fol. 726] (Protestant's Exhibit No. 38, Witness McClintock, was marked for identification.)

By Mr. Freeman:

Q. Very briefly what does that exhibit show, Exhibit 38?

A. Well, it shows the corn received at our Morris elevator from south of the river during nine months of January, February, March, April, May, June, July, and August of 1956, and a corresponding period in 1957. The figures during the 1956 period show that during that time we handled 854,326 bushels from the territory designated as south of the river, and for the corresponding period in 1957 we received 365,005 bushels.

Q. Have you also prepared an exhibit, Mr. McClintock, the first page of which is entitled "Disadvantage of Corn Destined to New York City Via Truck-Barge-Rail"?

A. Yes, I have.

Mr. Freeman: May that be marked for identification, please?

Exam. Dahan: It may be marked for identification as Exhibit Number 39.

(Protestant's Exhibit No. 39, Witness McClintock, was marked for identification.)

By Mr. Freeman:

Q. Will you explain that exhibit, please?

A. Well, there is involved here a situation where various [fol. 727] forms of transportation are competing for a particular class of tonnage from a particular locality. The locality in general is the territory served by the Kankakee Belt of the New York Central Railroad, and the different forms of transportation represent in one case a movement by rail from New York Central locations through Kankakee, hence to eastern territory, and the other involves the acquisition of grain from the same territory that moves, by necessity, to engage in this form of transportation, truck to the river, transferred from truck to barges to a river facility, thence moves to Chicago by barge, where it has to be transferred again from barge to rail in order to engage the existing proportional rate that is named out of Chicago.

Now, I think if we just—does everybody have one of these maps?

Q. Yes, they have been distributed.

A. This is just a rough sketch here, but fairly well represents the mode of travel and the distances involved and the charges accumulated in the movement from Dwight, Illinois. I have taken Dwight because it is a good sized shipping station, serves a big territory, perhaps one of the better shipping stations on the New York Central. It is located approximately 20 miles from Morris, Illinois, where we have a river location, river elevator location, and [fol. 728] it was Morris, Illinois that these figures I read a moment ago represent. In order for corn out of the Dwight territory to get to Chicago by barge river there are certain expenses incurred other than the actual transportation cost. They must be taken into consideration in considering a competitive situation that developed with a competing form of transportation. Up to the point where corn is received in an elevator at Dwight the rates in question in this proceedings have very little to do with getting the corn into the elevator at Dwight. But once there you have a pattern where just simple arithmetic tells the story. There is nothing mysterious or peculiar about it. It is just simple addition and subtraction. To get corn from Dwight to the Illinois River there is a charge of 5.4 cents per hundred. That represents the trucking charge from Dwight to Morris. Then we have to maintain the facility, rather expensive facility, at river location to transfer the barge corn into truck corn—into river, water movement—and the facility must, of necessity, be of some size in order to accumulate at least a little barge which averages around 40,000 bushels. We have used a figure here of 2.7 cents per hundred as representing the cost of transferring corn or grain from trucks to barges, 2.7 per hundred.

[fol. 729] Then there is the actual transportation cost from Morris to Chicago of 4.4 cents per hundred. That represents the charge made by the barge line. Then in order to engage the proportional rate on the corn that comes from Dwight over this circuitous route to Chicago via Morris, there has to be another transfer made and a charge paid to stevedores, grain trimmers, as we call them, and the amount of that is 5.2 per hundred. That is made up or broken down, the trimming charge is approximately 115

or .65 hundredths of a cent per bushel. The other is made up of the published tariff maintained at our elevator and is the rate which the public pays for services that we render, and it amounts to $2\frac{1}{4}$ cents a bushel, so that $2\frac{1}{4}$ cents a bushel and the .65 cents per bushel make up this 5.2 charge at the Chicago transfer point.

Now we have this grain up to Chicago, and at that location we can engage the proportional re-shipping rate out of Chicago to Eastern Trunkline Territory which is where the $5\frac{1}{2}$ cent rate may engage at either Chicago or Kankakee.

Now, if you had these—just a moment, please. The $5\frac{1}{2}$ cent per hundred rate that has been referred to here is not actually a $5\frac{1}{2}$ cent rate to Kankakee or Chicago. It is conditioned on the grain moving east, and our experience [fol. 730] in the early part of the application of this rate was that it had to be milled in transit, and it had to be moved to trunkline territory, eastern seaboard territory. So really, what we should be talking about, what is the cost to get grain to New York City, which is a representative point in the trunkline territory, by these various competing lines.

Now, it is obvious to anyone that the line and the mode of transportation which involves the least cost will capture the business, and they will capture more than the ordinary business to an extent that the cheap rate is lower than the higher rate.

Now, in this case, over the route that I have just referred to, truck-river-rail to New York City, is 71.2 cents per hundredweight. Now, that figure is a component of the proportional rate which we engage here of 53.5, and I am referring to the 53.5 because I am in the grain business. The product grain is in all cases a half a cent higher. But this 71.2 is the sum of the 53.5 proportional rate, and the figures that I referred to awhile ago consist of the truck, transfer at the river, transportation cost from the river point to Chicago, and the elevation and extra handling at Chicago, a part of which is actual out of pocket money. The rest is indirectly out of pocket because it bears a large [fol. 731] expense to maintain the facilities that are necessary to effect these transfers. So starting at Dwight and

going the route that I have been discussing costs us 71.2 cents a hundred to get to New York City, where we meet the competition of a rate from the same point, Dwight, Illinois, to New York City, of 53½ cents.

Now, there is a slight difference there between 53½ and 71.2, amounting to—

Q. That is 59, is it not? Your total of 53½?

A. Excuse me. The rate is 53½ plus 5½, or 59 cents, so the difference would be between 59 cents; the rate at which corn can move from Dwight to New York City all rail, and 71.2 cents, the cost of moving it over the route that I have previously referred to, a difference of 12½ cents per hundred.

Exam. Dahan: Excuse me. I would like to have you ask him questions. He has been going on and on, saying almost the same thing.

Mr. Freeman: This is a matter with which he is intimately familiar, and I thought it would be helpful if he would explain this in some detail.

Exam. Dahan: I believe he has, but we have so many repetitions, and I don't know how far he is going to go here.

By Mr. Freeman:

Q. I will ask you now, if you will, to explain the second [fol. 732] sheet, pointing out only the differences, Mr. McClintock, in this illustration of the application of the rate when it is destined to a processor in Chicago as distinguished from a processor located east.

A. Well, I would like to premise that remark just with the remark that Chicago—in Chicago is located a large corn processing industry and represents one of the principal outlets for corn produced in Illinois. Without repetition and quoting the same figures, in addition to having to pay the figures I have previously mentioned to get the grain up to Chicago, in order to reach an industry in Chicago, we are at a disadvantage of having to pay a crosstown switch that amounts to—well, a minimum of about 2¼ cents a bushel, and for comparison, it simply means that grain moving into Chicago by rail is not required to pay the crosstown switch. They have free switching to the local indus-

tries, free so far as the shipper is concerned. So we are at a further disadvantage in reaching Chicago industries to the extent of this 2 and approximately $\frac{1}{4}$ per cent per bushel.

Q. Mr. McClintock, does the price paid by a New York Central elevator or at a New York Central elevator and the price paid by a river operator at the river—we have had some figures comparing those two—does that reflect the [fol. 733] disadvantage of river corn?

A. Are you referring to some figures? What particular figures are you referring to?

Q. Figures have been put into the record the last two or three days. Have you been present at the hearing the last two or three days?

A. Most of the time.

Q. Figures which show that the river is bidding the same or maybe only a quarter or half cent less than the New York Central.

• Mr. Murphy: I object to the question unless you identify the witness, connect it up a little more, Mr. Freeman.

Mr. Freeman: Well, there has been a lot of testimony to this effect, and we are trying to expedite this matter. If you want me to go back through my notes and find the witnesses, I can do so.

Mr. Murphy: Why don't you just ask him of his knowledge of it and not for—

By Mr. Freeman:

Q. I will ask if equal price paid by a river operator or a comparable price paid or a half cent more by an operator on the New York Central reflects the disadvantage of the truck-river route over the all-rail New York Central route.

A. Well, I think we might take Dwight again as an example [fol. 734] ample. If the buyer located on the New York Central was bidding, for example, \$1.10 for corn, and we at the river were bidding \$1.10 for corn, we would be out of line to the extent of the cost of getting that corn from Dwight to Morris, which is 3 cents per bushel, so paying the same price at two locations doesn't tell the story because you have to take into consideration the cost of getting the grain from the point of origin to the point of transfer on

the river and again take into consideration the cost of getting that on the water transportation. Your disadvantage, just in the figures I have indicated in getting the grain from Dwight to Chicago, which is about 12.2 cents per hundred. In other words, the elevator on the New York Central could bid 7 cents a bushel, approximately 7 cents a bushel, more for corn than we could at the river and be at no disadvantage. In other words, there is about 7 cents a bushel leeway in there, and if they are only paying a cent more, then they are not paying nearly as much as they could under the favoritism of the rate.

Now, that is one thing that concerns me very much. It is not what is being done today that the elevators located on the New York Central are paying a half cent or a cent over. The fact is, if they so want to, in competition, they could pay 7 cents a bushel more for corn than we could [fol. 735] at Morris and be at no disadvantage so far as meeting our competition in New York or points taking the same rate. That is what we are concerned about. It is not so much being done today; it is what can they do.

Q. Under the way in which the people have bid off the Kankakee Belt, you nevertheless have lost business today, have you not?

A. Well, certainly we have.

Q. As reflected by the figures in your exhibit.

A. The grain business is highly competitive. A half a cent will turn grain one direction or the other, even less than half a cent.

Mr. Freeman: I have no further questions.

Cross examination.

By Mr. Chartrand:

Q. When you say a half a cent one way or the other, that would be the half a cent to the country elevator or the producer.

A. The half cent to the country elevator, because we don't deal with the producer. If one grain firm bids a half cent more to the dealer at any station—I don't care, I am not referring only to New York Central points, but the

grain business is so highly competitive that a half a cent bid higher than any other bid that he may receive will get the business.

Q. Your elevator at Morris, is that in a highly competitive position with the other river elevators in that territory?

A. Well, there are three other very strong, active firms located there, and competition takes on the nature that it does in every other location.

Q. If one of those elevators would raise their price on a particular morning a half a cent a bushel, how long would it take your people there to find that out?

A. How long would it take our people? Maybe five minutes.

Q. And if you wanted to participate in the business that day, what would you have to do?

A. We have to meet the bid.

Q. Now, do I gather from your testimony here that the country price in this territory is predicated upon this eastern demand?

A. It is at the moment. I would like to make a comment on that, if—

Mr. Murphy: I object. He has answered the question.

Mr. Freeman: He hasn't completed his answer.

Mr. Murphy: I think he has.

The Witness: It would be in your favor.

Exam. Dahan: We don't need any comments.

By Mr. Chartrand:

Q. The freight rate from this producing territory by either mode of transportation to that eastern demand would [fol. 737] have a direct bearing upon the country price.

A. Certainly.

Mr. Chartrand: That is all, thank you.

Exam. Dahan: Mr. Murphy?

Mr. Murphy: I have a few.

By Mr. Murphy:

Q. Mr. McClintock, directing your attention to Exhibit Number 38, can you tell us how far south of the Illinois River were the areas from which you drew this 854,000 bushels of grain in 1956? That is the statistics, sir.

Mr. Freeman: This is corn.

Mr. Murphy: Yes.

The Witness: Of course we drew from various distances, some within eight or nine miles of the river, and some further. The distances—I don't know, I suppose 25 miles or more, within a radius of 25 miles, the greater per cent of it.

By Mr. Murphy:

Q. Did you go as far as 40 miles south of the river?

A. I suppose there are instances when we went as far as 40 miles.

Q. Were the total bushels of corn handled through your Morris elevator in 1957 as high as the total number of bushels of corn handled through that elevator in 1956?

A. I really don't know offhand. I could supply you with [fol. 738] the information if you want it.

Q. Can you give me any relative understanding as to your elevators at Hennepin and Lacon, 1956 over 1956, or under?

A. No, I can't, nothing definite.

Q. Directing your attention to Exhibit Number 39, sir, on sheet 1 thereof you show a trucking cost from Dwight to Morris of 5.4 cents per hundred pounds. I ask you, isn't it a fact that a substantial amount of the corn that you buy moves directly from the farm to your elevator without going through a country elevator?

A. I would say a sizable amount does.

Q. Well, on corn moved directly from the farm to the river elevator you wouldn't have a 5.4 cent trucking charge in excess of the trucking charge to the country elevator for rail movement, would you?

A. I think you would. I don't think the fact that it was moving off the farm is too important for the reason that time to a trucker is money, and he can go to an elevator

and have a load of corn siphoned into his truck in probably about five minutes. If he goes out to the farm where they are shelling, he is not going to make such good time in getting a load and getting back to the elevator, so I would say that there is not too much difference in what it would cost to move grain off the farm as compared to moving it [fol. 739] out of the elevator.

Q. What is the authority for your 5.4 cent truck charge?

A. Well, that has been our experience. We know incidentally about what the costs are from various points.

Q. Did you hear the witnesses testify yesterday to the effect that the trucking costs vary with the distance, that that was the controlling factor?

A. It varies with the distance when you are talking about the distance of one elevator to another. I don't think they were making reference to distance within their own area.

Q. No, it varies with the distance the corn is handled, is transported in the truck.

A. To the minimum rate, whether you go five miles or ten, it doesn't make much difference. There is a minimum cost.

Q. How far is it from Dwight to Morris?

A. It is 18 or 20 miles.

Q. Would that be a higher rate than the rate for 10 miles?

A. A little maybe, not too much. There is a minimum rate, just like you have a minimum rate.

Q. Doesn't the country elevator operator who acts as an agent for the procurement of corn for you—

A. He doesn't act as our agent. He is the principal.

[fol. 740] Q. All right, he acts as a principal, but doesn't he give the farmer river bids and rail bids?

A. I assume so.

Q. And let the farmer—

A. No, the farmer doesn't know where the corn is going in most cases. He bids for corn. The farmer is not concerned with what the elevator man does with it. The elevator man determines the bid on the competing bids, and he will accept the highest bid.

Q. There is testimony to the effect that the farmer pays the trucking cost to the river if it does go to the river.

A. But he has made a price delivered the river. He knows what it costs.

Q. The farmer makes a price delivered to the river, does he?

A. No, the country elevator man.

Q. To the farmer.

A. To the farmer, if it is going to move direct.

Q. Well, let us take that situation then and assume that we have a farm midway between Dwight and Morris. Wouldn't the trucking cost from that farm to Morris be the same as the trucking cost to Dwight?

A. I would assume about the same.

Q. And isn't there an elevation at Dwight to get the [fol. 741] corn from the truck into the rail car, just as there is an elevation at Morris to get the corn from the truck into the barge?

A. He has a much less expensive facility required at the river. It costs probably twice as much to build an elevator on the river as it would to build the same capacity of an elevator out on the prairie because of the physical equipment you have to put into the structure of the building and along the river banks, where it requires piling for the foundation to be set on, so there is a great deal more expense involved at river location than there is out on the prairie.

Q. He has a lower volume to amortize that expense, however, at the country elevator stations, doesn't he?

A. He did before the New York Central put in the 5½ cent rate.

Q. He still has according to barge figures. These figures you show here on your Exhibit Number 38 are not the total number of bushels handled during the eight months of 1957 through your Morris elevator, are they?

A. No, I believe I classified it as coming from south of the river.

Q. You indicated you didn't know how much your corn handlings to that Morris elevator were in 1957 under 1956, I believe.

[fol. 742] A. I repeat, I don't. I can find out pretty quickly.

Q. Can you give us an approximation of how much it was off or how much it was over?

A. No, I wouldn't want to risk that.

Q. You referred to an elevation of $2\frac{1}{4}$ cents a bushel at Chicago. Does that include an element of profit? You said that was a published charge.

A. It is a published tariff. We are licensed under the Federal Warehouse Act to do this business, and they approve of the tariff or consent to a tariff. I don't know whether they would approve it or not, but they consent to the tariff of certain calculations, and this is the charge for handling grain through the elevator, $2\frac{1}{4}$ cents a bushel, and Uncle Sam pays that to us for handling corn that they ship to our elevator, the published rate.

Q. Is most of the corn that is handled through that elevator corn which you own?

A. I would say year after year, yes. At the moment we have more public corn than we have our own.

Q. Does this $2\frac{1}{4}$ cents include an element of profit, sir?

A. Well, you can tell at the end of year whether it has. You can't predict that it will develop a profit.

Q. I am not speaking of your total operation. I mean [fol. 743] this charge that you publish and which you assess the shipping public, other than yourself. Does that include an element of profit?

A. It could.

Q. Do you make money on elevating grain for other people that you don't have ownership to?

A. I wouldn't say that we made money on it. It depends on how much of it we do.

Q. You don't—

A. If we transferred five cars today for $2\frac{1}{4}$ cents a bushel and we did nothing else, we would lose money. If we transferred a hundred cars, we would probably make some money. You can't determine those things. The object is to make some money.

Q. I think that answers that question.

Do you also perform other operations at your terminal elevator in Chicago other than the elevation?

A. Storage.

Q. Any others?

A. Other services?

Q. Yes, anything else that you do to the corn that you own.

A. Well, we keep it in condition, we dry it.

Q. Dry it?

A. Dry it; in a year like this where it contains a high [fol. 744] percentage of moisture, we have to dry the corn.

Q. When you buy corn at a moisture discount and dry it, is there an element of profit there, sir?

A. You mean just in the drying process?

Q. When you operate—

A. No, very little, if any.

Q. Assuming that you are buying corn on the moisture discount, this year, number 2 corn, 20 per cent moisture, which would you give a discount under the number 2 bid price, would you be able to dry that and make a profit on the drying?

A. Well, that would depend on what the competition would force me to pay for it and what I could sell it for. You still got to dispose of the grain. The proof of the pudding is in selling your grain and buying it, not what you have done in between those two actions. We buy corn on the river as number 2 yellow corn. There is a certain discount set up if it does not grade true, and those discounts are supposed to cover the cost of converting that corn from the grade that it is when we get it to a number 2 grade. That is about all you can get out of it, out of a competitive situation that exists.

Q. Do you do any blending at Chicago?

A. Blending?

Q. Yes, top grade corn?

[fol. 745] A. You mean do we mix corn?

Q. Yes.

A. Our corn is mixed, certainly.

Q. Is that another operation that is profitable?

A. We are hopeful it will be.

Q. Those are operations that are over and in addition to mere elevation, isn't that correct?

A. Yes, certainly.

Q. When you buy corn for your account and bring it into your elevator, you can perform those operations on the corn that you receive by barge, is that correct?

A. We are prepared to, yes.

Q. You can make a profit on that corn that you have in your elevator.

A. Well, we make some profit, gross profit, at least. We make some gross profit, otherwise we would be out of business pretty quickly, as you can understand.

Q. On the first page of your Exhibit Number 39 you indicate no elevation on the rail route. I ask you, isn't it necessary to elevate the corn that is bought in—at the $5\frac{1}{2}$ cent rate?

A. Yes, but when you are talking about a processor and your rate requires that the grain be processed, there will be a corresponding charge somewhere between Chicago and New York that would offset the charge at Kankakee. [fol. 746] If you want to go into charges all along the line, your rate imposes a condition where the grain has to be processed. Naturally Kankakee has to unload the grain because the nature of his business is such that he has to get it in the elevator and his mill before he can process it. Now, then, there would be another charge along the line some place because you require it in order to make that rate effective.

Q. I don't think you understood—

A. Yes, I understood it.

Q. Just answer me simply the question, is there an elevation required at Kankakee, if corn was milled by General Foods?

Mr. Freeman: His answer was it would be to a processor at Kankakee, it must be processed. Isn't that responsive?

Mr. Murphy: Just a minute. I am talking to the witness.

Mr. Freeman: I think he has answered your question, Mr. Murphy.

The Witness: Yes, there must be an elevation there.

By Mr. Murphy:

Q. You referred to 7 cents as a factor by which the river is out of line on this basis of rates. Can you break that factor down, please?

A. It is the difference between 71.2, which represents [fol. 747] the accumulated figures, plus the proportional rate—

Mr. Freeman: That is just his position.

By Mr. Murphy:

Q. You mean you restated this 12.2 cents you calculated in terms of bushels, is that correct?

A. No, 71.2 per hundred, while the rate direct from Dwight to New York by rail is 59, making a difference of 12.2 cents per hundred, which is about, by the time you add the federal tax on it, 7 cents a bushel.

Q. You made a statement that if the New York Central buyer was bidding \$1.10 for corn and the river was bidding \$1.10, the river would be out of line. Is that a bid at the river by you, for example, versus a bid by a New York Central buyer for the corn in cars?

A. Yes. If the buyer on the New York Central was paying \$1.10 for corn, and we were bidding at the river \$1.10 for corn, we would be out of line to the extent that the cost is from Dwight to Morris, trucking charge, and that is just the disadvantage that we have up to the first point of transfer. That disadvantage continues as we move to Chicago, and we have to get to Chicago before we can engage the same proportional rate that you grant Kankakee.

Q. Isn't it a fact that the rail bids are all for corn in the boxcar on the track at the country elevator station?
[Vol. 748] A. Yes, generally that is true.

Q. Isn't it a fact that the river bids are all for corn in trucks at the river elevator?

A. Correct. That is 3 cents a bushel difference.

Q. If the bid at the country elevator was the same as the bid in the rail—in the rail car was the same as the bid before elevation at the river, wouldn't the corn move to the river?

A. No.

Q. And avoid the expense of the elevation?

A. No, because you have to truck it over to the river.

Q. You have to truck it to the country elevator station, too, don't you?

A. But that elevator, as you quite well know, that corn may be produced between the New York Central and the river, or it may be produced ten miles on the other side, so the average, the average, is Dwight to Morris.

Q. That is the basis for your situation here.

A. Yes, of course.

Q. You indicated earlier that most of your corn was grown within 20 miles of Morris. That wouldn't be south of the New York Central, would it?

A. The New York Central is about 20 miles.

Q. Where is this corn that you draw that would be south [fol. 749] of the New York Central?

A. Mr. Murphy, I believe that is your name—

Q. Yes, sir.

A. —we don't put out a bid to draw corn from any place in particular. We put out a bid delivered Morris, and the country and the country elevator, they find out pretty quick where is the best place to sell corn, so they calculate what our bid nets them back at their point of origin, and if they can do better than they can by shipping it by rail to any point, it will come to the river, and it only has to be a fraction of a cent more. I don't know where the corn came from.

Q. Wasn't that true even before the New York Central rate became effective?

A. Yes.

Q. Directing your attention to sheet 2 of your Exhibit Number 39 I ask you if what you refer to as a large corn processing located in Chicago is a dry corn miller.

A. No, it wasn't, not the largest one.

Q. Is there a dry corn miller in Chicago?

A. No, I don't think so. Feed manufacturer.

Q. Isn't the rate that would apply to Chicago for the processing operation of the large corn processor in Chicago the 20½ cent rate from Dwight to Chicago?

A. Will you repeat the question?

[fol. 750] Q. Isn't the rate that would apply on corn moving from Dwight to the large corn processing industry in Chicago the 20½ cent rate?

Mr. Hayes: I don't know what counsel means.

The Witness: All rail?

By Mr. Murphy:

Q. Yes, the local rate to Chicago, 20½ cent.

A. I think the local rate is cheaper.

Mr. Freeman: He is talking about rate going beyond, as the exhibit shows.

Mr. Murphy: Not on page 2, Mr. Freeman.

Mr. Freeman: Yes, he is. That is what those dotted lines mean.

By Mr. Murphy:

Q. Let me ask you this question, does this large corn processing industry mill corn and come within the provisions of the restriction in connection with this 5½ cent rate?

A. You mean is the local processor, wet processor we refer to, can he engage the New York Central rate of 5½ cents in Chicago?

Q. In connection with his outbound products.

A. I think so. It is my understanding he can.

Q. I think your understanding is incorrect. I don't believe it applies in connection with their products.

Mr. Chartrand: They have gluten.

[fol. 751] Mr. Freeman: May that comment be stricken from the record, that this rate doesn't apply? If they want to put on testimony to that effect, they may.

Exam. Dahan: It may be stricken.

Mr. Murphy: I would like to have the witness' tariff authority for stating that the rate does apply, sir.

Mr. Freeman: We will supply it with the next witness.

Mr. Murphy: All right, thank you.

By Mr. Murphy:

Q. Can you give me the names of the elevators located south of the New York Central from which you buy corn?

A. No, I can't.

Q. Your operations are in Chicago, operating base in Chicago, and you are not active in the transmitting of bids down at the country—

A. I determine the bid.

Q. Here in Chicago.

A. At the river.

Q. Your office is in Chicago, though, is it, sir?

A. That is correct.

Mr. Murphy: Thank you. That is all I have.

Mr. Freeman: I just have one or two questions on redirect.

[fol. 752] Redirect examination.

By Mr. Freeman:

Q. You sell to processors in the east from Chicago, Mr. McClintock?

A. Yes.

Q. And that is corn that has arrived by barge into your elevator at Chicago, and those processors compete with the processors at Kankakee and Indianapolis?

A. I don't—

Mr. Murphy: I am going to object to his discussing the business of some of his customers.

By Mr. Freeman:

Q. Do you sell to processors in the east?

A. Yes.

Q. And they mill corn products, mill corn into corn products?

A. That is my understanding.

Mr. Freeman: That is all.

Exam. Dahan: You are excused.

(Witness excused.)

OFFERS IN EVIDENCE

Exam. Dahan: Exhibits 38 and 39 will be received in evidence.

(Protestant's Exhibits Nos. 38 and 39, Witness McClintock, were received in evidence.)

Mr. Freeman: Mr. Dowse.

ORIN S. DOWSE was sworn and testified as follows:

[fol. 753]

Direct examination.

By Mr. Freeman:

Q. Will you state your full name and address, please?

A. Orin S. Dowse, vice president of Norris Grain Company, Chicago.

Mr. Freeman: I may say, Mr. Examiner, in order to expedite, I will try to abbreviate the testimony of this witness which will in large measure be like that of the others.

By Mr. Freeman:

Q. What is your position with Norris Grain Company?

A. Vice president.

Q. What are the responsibilities of your job as vice president?

A. I supervise the river operations and merchandise corn as well as other grains out of the Chicago market.

Q. How long have you been in the grain business, Mr. Dowse?

A. I hate to think of it—38 years.

Q. Will you describe the elevators of Norris Grain on the Illinois River and at Chicago which are capable of handling corn?

A. The Chicago elevators is the Calumet and the Norris elevator. The river elevators are located at Joliet, Morris, Ottawa, and Spring Valley on the Illinois River.

[fol. 754] Q. What is the capacity of your Chicago elevator?

A. The Calumet elevator is 2,800,000 bushels, and the Norris elevator is 2,200,000.

Q. Are you familiar with the issues in this proceeding in a general way, Mr. Dowse?

A. Yes, I am.

Q. Has your operation at the Illinois River been affected by the reduction of the New York Central rate to Kankakee?

A. Yes, they have.

Q. Have you been able to develop some figures comparing 1956 with 1957 at your Illinois River elevators?

A. I have only taken Morris, Illinois because that is the one that has been largely affected by the 5½ cent rate, and our receipts in 1956, from January 1 to June 30, at the Morris elevator, of corn were 1,640,380 bushels. During the same period in 1957, 994,000—

Q. During the same period in 1956?

A. During the same period in 1957, January 1 to June 30, 994,475. That is a decrease of 645,905 bushels.

Q. Do you buy grain from country elevators exclusively?

A. Country elevators only, and I might add, the reason we do is because the country elevator is an important part of our marketing system, and secondly, we prefer not to buy from farmers and take the responsibility of any liability [fol. 755] of liens or anything like that on the grain. We leave that responsibility to the country elevator.

Q. Is it necessary, in order to maintain the volume that you need at a river house, to purchase from country elevators rather than directly from farmers?

A. We feel the country elevator can do a better job buying grain from the farmers. They know each one of them individually, the farmers spend considerable time in their elevators on Saturdays. They know each one of them personally, and we do not.

Q. The country elevator serves a useful function then in the operation of the marketing structure at the river?

A. They are very useful.

Q. And he must have a margin in order to maintain himself and be able to perform the functions of the river elevator?

A. Yes, he does.

Q. Will you say generally what has been your experience that margin is?

A. Well, that margin at the country elevator varies all the way from 2 to 4 cents a bushel.

Q. The 2 to 4 cents would include trucking from those points which are close to the Illinois River?

A. No, no, not necessarily. The country elevator's margin [fol. 756] itself is from 2 to 4 cents.

Q. That is in addition to any trucking cost.

A. Any trucking, yes, and as a matter of fact, I say the United States Government allows the country elevator 6¼ cents a bushel on government grain.

Q. Do you market corn from your Chicago elevator by selling to processors in the middle west and the east, processors of corn?

A. Yes, we do.

Q. The question has been raised with respect to boxcar situation; have you had any difficulty in obtaining empty boxcars in Chicago in 1957?

A. Well, one of our main problems is getting empty boxcars for shipments from our two elevators in Chicago, and especially the New York Central Railroad which at times has been unable to furnish us the necessary empties which we need for our shipments.

Q. Has that been true in the fall of 1957?

A. Very true, yes. As a matter of fact, we try to persuade our customers to route them any other line they can.

Q. Do you in fact, however, route some corn by the New York Central for destination east?

A. Oh, yes, we do, whenever our customers require.

Q. Do you oppose or support the application of the New [fol. 757] York Central here for Fourth Section relief on the rate from the Kankakee Belt?

A. No, I do not.

Q. You oppose the application.

A. Yes.

Mr. Freeman: That is all I have. He is ready for cross examination.

Cross examination.

By Mr. Murphy:

Q. Mr. Dowse, can you give me the number of bushels handled through your Ottawa and Spring Valley elevators, 1956 and 1957?

A. No, I don't. In the first place, the Spring Valley elevator was not completed until September 1, 1957. I do not have the Ottawa figures here. I can get them, though.

Q. Did you handle a substantial volume of corn through your Spring Valley elevator in 1957?

A. From September 1957 to the end of December I would not say we did, because we were new in that territory. The elevator has just been completed on September 1.

Q. Did you increase your corn handlings at Ottawa 1957 over 1956?

A. No. They were down. All of our river operations were down in 1957 compared to 1956.

Q. Were some of your purchases diverted from the Ottawa elevator to the Spring Valley elevator?

[fol. 758] A. No, it was not.

Q. They are right near each other, aren't they?

A. No, it was not. They do not call the same customers from those two elevators.

Q. How far south of the New York Central are the elevators to which you call your bids?

A. You mean south of the New York Central?

Q. Yes, sir.

A. I can give you who we call, a few of them here. Odell, Rusby, Emington, Cullom, Cornell, Flanagan—we cover quite a territory.

Q. Do you buy from Landis Grain Company?

A. Landis Grain Company?

Q. Yes.

A. Not to my knowledge, no. I am not familiar with all of the companies we buy from. We have a list of about 75 customers in our Morris territory. We have a man by the name of Landis working for us, though, who runs the Morris elevator.

Q. Are there any exceptions to your buying only from the country elevators?

A. I think I stated the reasons why we want to buy—

Q. I am asking you, are there any exceptions to that policy. Do you buy from truckers?

A. No, we do not.

[fol. 759] Mr. Murphy: Thank you. That is all we have.

Mr. Freeman: I have no redirect.

Exam. Dahan: You are excused.

(Witness excused.)

Exam. Dahan: We will take a short recess.

(Short recess.)

Exam. Dahan: Come to order, please.

JAMES V. SPRINGROSE was sworn and testified as follows:

Direct examination.

By Mr. Freeman:

Q. Will you give your full name and address?

A. James V. Springrose, Room 1740, Field Building, 135 South LaSalle, Chicago.

Q. By whom are you employed, Mr. Springrose?

A. By Cargill, Inc.

Q. What is your position with Cargill?

A. Traffic manager of the central region. My duties consist of the normal supervision of a traffic department and its functions, including freight audit and payments, the billing of cars, car supply, claims, rate quotations, and so forth. In addition to that, my responsibilities are coordination of the merchandising and the transportation functions of our business. Because of this latter responsibility I have had of [fol.760] necessity to familiarize myself with the merchandising patterns of the entire central region, which includes the country origin area that is being discussed in this proceeding.

Q. That is, it includes central and northern Illinois and the Chicago area and there are some other areas as well?

A. Yes. Wisconsin, parts of Iowa, yes.

Q. Very briefly, what is your past experience with Cargill?

A. I came to Chicago in my present capacity in May of 1955. Prior to that time I was traffic manager and branch office merchant for three years in our office in Louisville, Kentucky. Prior to that time I was assistant traffic manager in the St. Louis office for six years.

Mr. Freeman: Mr. Springrose has two exhibits. It may be well to mark them for identification now. I would like the picture identified first, please.

Exam. Dahan: That will be marked for identification as Exhibit Number 40.

(Protestant's Exhibit No. 40, Witness Springrose, was marked for identification.)

Mr. Freeman: The next is an exhibit of two sheets with a cover page.

Exam. Dahan: That will be marked for identification [fol. 761] as Exhibit Number 41.

(Protestant's Exhibit No. 41, Witness Springrose, was marked for identification.)

By Mr. Freeman:

Q. Are these exhibits marked for identification 40 and 41 true and correct to the best of your knowledge?

A. Yes.

Q. Will you explain what Exhibit Number 40 depicts?

A. Exhibit Number 40 is a picture of the portable loading facility at Reddick, Illinois. It was taken on January 23, 1958. In the lower righthand corner it shows a truckload of corn being dumped into a trough that is laying on the ground. From there it is elevated through the pipe by means of an auger to the small bin at the top of the scaffold. It falls from there via gravity to a point just at the car door and right above the grain doors. At that point it falls to a portable belt which is approximately three feet long with large spools on either end and connected by a belt. It is commonly referred to as a slinger. The spools and the belt revolve at high speed, and the corn falling onto that belt is thrown into the ends of the car. It is mounted on a swivel so that it may be turned, and each end of the car can be loaded without any difficulty.

Incidentally, there is no trimming necessary in the [fol. 762] loading of a car of this type. You will notice also on the picture that there is an adequate supply of grain doors in the lower lefthand corner.

Q. Have you seen this and other portable loading operations along the Kankakee Belt?

A. Yes, I have.

Q. With your own two eyes?

A. Yes, I have.

Q. Is there an elevator at Reddick?

A. Yes, it was abandoned, but it is there.

Q. There is an elevator near this facility?

A. Just across the road, yes.

Q. Will you explain and will you indicate other portable loading facilities with which you are familiar along the Kankakee Belt?

A. Well, the elevator facility at Reddick depicted in the picture is operated by the Cabery Farmers Elevator at Cabery, Illinois. Their own elevator is served by the Illinois Central, but they truck eleven miles to this facility to load their corn. At Union Hill, Illinois there is another similar arrangement. It is jointly operated by the Herscher Grain Company, who are also on the Illinois Central at Herscher, Illinois. They truck seven miles to Union Hill, and the Quaker Oats Company, who are located at Buckingham, Illinois on the Illinois Central, and they truck approximately twelve miles to that facility at Union Hill.

There is another portable loading facility that is at Goodrich, Illinois, which is two miles east of Lehigh, and it is operated by the Irwin Grain Company, located at Irwin, Illinois, on the Illinois Central, and they truck seven miles to that facility.

There is another portable loading facility at Streator, Illinois, just southeast of Streator about one mile. It is operated by Mr. Ike Barrett, who is located at Moon Station, Illinois, on the Santa Fe, and he trucks four miles to that facility. There is a portable loading facility on the passing track at Dwight, and it is operated by Mr. Walsh of the Walsh Grain Company in Campus, Illinois. His own elevator there is served by the Wabash, but he trucks nine miles to Dwight.

At Streator, Illinois, the Melody Grain Company, operated by Mr. Melody of Munster, Illinois. He has a grain-o-vator. That is a little different than this type of thing. That operates on suction, and he loads his corn into boxcars on

the New York Central right behind the depot. He doesn't have a lease; they just let him use it.

The Quaker Oats Company also have a portable loading facility on a passing track at Dwight, and they load through that facility from their elevator at Odell, Odell, Illinois on [fol. 764] the GM&O, which requires a trucking of ten miles.

Q. Are these just the facilities with which you have had an opportunity to become familiar, or is this an exhaustive list so far as you are concerned?

A. No, these are only the ones I have become familiar with. There may be others; I don't know.

Q. You mentioned the facility at Goodrich. Is there also an elevator located at Goodrich in addition to the portable loading facility?

A. Yes, but it, too, looked deserted. The spouts were rusty coming out of the side.

Q. Turning to your exhibit marked for identification 41, will you explain what that exhibit shows?

Mr. Murphy: Your Honor, I am going to object to the introduction of the last page of Exhibit Number 41 on the ground that it doesn't show anything in regard to present rates, it doesn't show anything in regard—that would bear on the lawfulness of the New York Central's rate.

Mr. Freeman: The exhibit as a matter of fact does, in column 2, as Mr. Springrose will explain, show present rates to Chicago. I assume that Mr. Murphy's objection is that it shows rates to Chicago, but the main reason this was put in is that there was considerable discussion by the New [fol. 765] York Central and the General Foods witnesses about the level of proposed rates into Chicago, and this is a record of what those rates actually were, and we think the record should be clear on that point. This shows the present rates to Chicago, and as Mr. Springrose will explain, it shows rates which have been reduced and rates which have been proposed for reduction, and I think his testimony will make it quite relevant to the proceeding here.

Mr. Murphy: The point is, your Honor, the question of the proposed rates, and that is all that I am directing my objection to, is the showing of proposed rates which may or

may not become effective. Certainly those rates have no bearing on the lawfulness of this rate.

The Witness: I can fill the historical background of those proposals to this point.

Mr. Murphy: The historical background of the proposals is completely immaterial to this case.

Exam. Dahan: Your objection is overruled at this time. If there is any further objection later on, you may raise it. You may continue.

By Mr. Freeman:

Q. Will you proceed to explain your exhibit?

A: The map is attached to this exhibit simply for clarification. The origins used on the next page in the rate exhibit [fol. 766] are underscored on the map so that they might be more easily spotted and located and the general area can be determined. The rate exhibit shows origins from various railroads serving the same territory and their rates to Chicago. These origin stations are representative points in the area.

Q. That is, you have not attempted to show all origins in Illinois to Chicago.

A. Oh, no.

Q. This is merely a representative showing.

A. There are many others. From Wilmington Mine on the Santa Fe, which is 55 miles to Chicago, the interstate rate to Chicago prior to December 15, 1956, has been—as increased through Ex Parte 206A, was 20 cents. In column 4 you will note that the Santa Fe proposed a rate to Chicago on an interstate basis of 10½ cents. From Verona on the Santa Fe, 71 miles from Chicago, the rate is 18 cents, which is an IP rate when used in the trading at Chicago, predicated upon subsequent movement to eastern territory. They propose a rate to Chicago on an interstate basis of 12 cents. Ottawa, Illinois, on the CB&Q, also has the 16 cent rate, IP rate, to Chicago. They propose 10½ cents on an interstate basis to Chicago. They are 80.9 miles from Ottawa to Chicago. Grand Ridge on the CB&Q has the same 18 cent IP [fol. 767] rate with a 13 cent rate proposed, and it is 89.6 miles to Chicago.

Q. Mr. Springrose, maybe to expedite the proceeding, if you will run down and give the mileages down through column 8, which will carry you through the point where you have proposed rates, and then you can explain your item 9. Can you give us the mileages for the appropriate line?

A. All right. Andres is 93.7; Yeager is 78.4; Gardner is 65 miles; and Streator is 96 miles. These are rail miles to Chicago.

Q. On line 9 you have a different comparison. Will you explain that, please?

A. Spring Valley on the Chicago & North Western is 109.1 miles to Chicago. They have the 18 cent IP rate to Chicago, and they have already established a 14 cent rate to Chicago on an interstate basis. This 14 cent rate into Chicago is still subject going to eastern territory to the local rate from Chicago as minimum before the reshipping rate from Chicago can be engaged, and therefore that 14 cent rate would require a pad of 4 cents before the reshipping rate from Chicago could be utilized. The same thing holds true for Morris, Illinois on the Rock Island, which is 81.3 miles to Chicago. Their interstate rate is 13 cents. The pad on that rate would be 5 cents, bringing it up to the total [fol. 768] of 18, and Ballou or Langham, on the Rock Island, is 76.1 miles to Chicago, and it is the same as Morris. Ballou on the Wabash is 51.1 miles to Chicago. It has a 20 cent rate to Chicago on an interstate basis, and they have not published any lower interstate rates, nor have they issued any proposals to lower their interstate rates.

Q. Are the rates shown in column 2 of long standing duration in the rate structure?

A. In the rate structure, they are, yes, sir. The levels vary depending on the time.

Q. That is, they vary by virtue of general increases.

A. Yes, and minor adjustments.

Q. While on that subject, are the rates to Kankakee which were applicable before December 15, 1956 of long standing duration?

A. Yes, they were.

Q. From approximately what date were those reshipping rates established?

A. The reshipping rates from Chicago?

Q. No, on the Kankakee Belt from Kankakee.

A. The reshipping rates from Chicago and from Kankakee to the east were established under the present basis in 1921.

Q. Is there anything else you would like to say about Exhibit 41?

A. I have nothing further.

[fol. 769] Q. Did Cargill sell corn to General Foods at Kankakee in 1956?

A. Yes, we did.

Q. How much corn was sold at Kankakee, to General Foods?

A. During 1956 we sold General Foods 410,000 bushels of corn from our Chicago elevator and 295,000 bushels of corn that was reconsigned off track at Chicago. It came into Chicago by rail and was diverted to them from Chicago.

Q. Did this corn have x-barge or x-rail billing behind it?

A. Of course the reconsigned grain off track moved on its through waybill, and it did have ex-rail grain and all the 410,000 bushels sold to General Foods in 1956 from our elevator also had x-rail billing, and the reason for this is that General Foods has the buying policy that they specify rail billing, and they categorize them in four types actually when they buy from the Chicago market. One they term special billing, which is grain that originates on the IC or the GM&O, W, under the present level of rates, 25 cents or better paid into Chicago. Another category is what they term six line billing, which are those IC and GM&O origin stations that do not fall into the special category, and in [fol. 770] addition to those two, Wabash, New York Central, C&EI, and Milwaukee Road origin stations. Another preference they have is Iowa TM billing, again preferably originating on the Illinois Central, and their last preference is barge billing, and it prevails with us, and I assume it prevails with the other people in the Chicago area.

General Foods only buy Chicago elevator corn when they cannot meet their requirements with country run corn.

Mr. Murphy: I object to that, your Honor. This witness may know and may be able to testify in regard to what

orders General Foods placed with Cargill, but in so far as testifying as to an over-all policy or testifying as to what General Foods only does, I certainly suggest that he is incompetent—

By Mr. Freeman:

Q. Did they specify the preferences you have just given to Cargill?

A. Yes, they do. The first three may not be in the proper numerical order by their preference, I don't know, but barge billing always comes last.

Q. And that you know.

A. That I do know.

Q. Where is the destination of the preponderance of Cargill's x-barge billing from Chicago?

[fol. 771] A. The preponderance of our x-barge billing from Chicago is shipped from our elevator to points on and east of western termini, Buffalo, Pittsburgh—I might elaborate, Norfolk common points, or Virginia City's common points, Baltimore and Baltimore basing points, Philadelphia, the Del Mar peninsula, and all of New England territory.

Q. You sell to processors at those points of corn products?

A. We do, yes, many of whom compete with General Foods.

Q. Have you had an opportunity to check the application of the 6 cent rate on corn to Port Cargill, referred to in Exhibit 18?

A. Yes, I have.

Q. Proceed.

A. The 6 cent rate shown in Exhibit 18 from Winstead, Minnesota to Port Cargill, Minnesota is in no way comparable to the 5½ cent rate to Kankakee. First of all, I would like to say that the way I compute the mileages from Winstead to Port Cargill, they are 53 and not 59 miles, using the Glenwood Junction, which is the actual physical operation of the Minnesota Western Railroad, and that makes the per car mile earnings at \$1.13 based on a hundred cap car, 100,000 pounds. In addition to that, Winstead is 40 miles from Minneapolis. It is published on a local intrastate, nontransit basis, and the rate is approved.

[fol. 772] only by the Minnesota Railroad Commission under their tariff number 88. It carries an expiration date of December 5, 1958. The rate from Winstead, 40 miles, is 6 cents, and going west from Winstead the rate is scaled upward from Lake Lillian, for example, 85 miles to Minneapolis, and the rate is 10 cents, and the farthestmost point is Brimsburg, 100 miles from Minneapolis, and the rate is 12 cents. As I said before, this is a local intrastate rate and may not under any circumstances be used on an outbound transit shipment. If transit is desired, the local interstate rate, which is at a higher level, must be paid into Minneapolis or Port Cargill at the time of unloading, and further, when reshipping from Minneapolis, the pad requirement there, the difference between the local rate and the reshipping rate from Minneapolis, is $21\frac{1}{2}$ cents, so that that actually is the minimum rate under a transit shipment beyond Minneapolis or Port Cargill.

Q. That is by virtue of the Fourth Section rule.

A. Yes.

Q. Have you had an opportunity to determine whether the $5\frac{1}{2}$ cent rate from points on the Kankakee Belt west is applicable to points in central territory via the Illinois Central from Kankakee?

[fol. 773] A. Yes. Corn may originate on the Kankakee Belt and move at the $5\frac{1}{2}$ cent rate to Kankakee, subject to milling in transit, and move from Kankakee via Illinois Central to Chicago or to Indianapolis, thence connecting railroads other than the New York Central to various destinations in central territory.

Q. In which event the New York Central would have handled the corn only to Kankakee.

A. Yes, and made the transfer to the Illinois Central at Kankakee.

Q. The question was raised, when Mr. McClintock was on the stand, with respect to Exhibit 39. Have you had an opportunity to determine the tariff reference authority for the showing on sheet 2 of that exhibit?

A. Now, I am at a loss to know who they were talking about when they said there were no products shipped from Chicago by that processor. Would you state that, please?

Mr. Freeman: Off the record a minute.

(Discussion off the record.)

By Mr. Freeman:

Q. Can you give tariff references which show the application of the rate from Kankakee, points originating on the Kankakee Belt, to Chicago outbound from Chicago to destinations east, the corn being processed in Chicago?

[fol. 774] A. Yes. The New York Central 701A, CTR 535, CTR 245.

The actual transit provisions at Chicago are granted in CTR 413.

Mr. Murphy: If I may interrupt for a minute, I would like to state that that is not the answer to my question. The answer to the question was what tariff authority permits this large processing plant at Chicago that transits its product. I asked that of Mr. McClintock, and Mr. McClintock was the one who used the phrase "large processing plant at Chicago." So it would take some indication of what products are produced by that processor to determine whether or not the tariff applied.

By Mr. Freeman:

Q. Is the tariff reference you gave support for the application of the Kankakee proportional rate to destinations east via Chicago to someone processing corn into corn products?

A. Yes.

Q. Are there points in official territory at which there is a transit charge for corn processing, such as has been mentioned on the record with respect to Indianapolis?

A. Transit charges in central territory are the rule rather than the exception, and they are quite widespread, and they range from 1 cent and $1\frac{1}{2}$ to 4 cents a hundred.

Q. And are generally applicable.

A. Yes.

[fol. 775] Q. The question has also been raised on this record with respect to the New York Central mileages from Chicago via the New York Central to destination points shown on Exhibit 15 of Witness Tascik. Are you in a position to supply those mileages?

A. Yes, I have them. In the same tariff references were used for these mileages as are shown on the exhibit. Direct line mileage from Chicago to Albany, New York, is 811.6; Boston, Massachusetts, 1011.6; To New York, New York, 948; to Rochester, New York, 603.6; Syracuse, New York, 667.9; Utica, New York, 720.9; Buffalo, New York, 521.3; Cleveland, Ohio, 340.1; Detroit, Michigan, 280.1; Indianapolis, 193.6; Kalamazoo, Michigan, 156.4; Kendallville, Indiana, 142.1; Pittsburgh, 478.3; Toledo, 233.6; Youngstown, Ohio, 414.8.

Q. Has Cargill had experience with paper grain doors?

A. Yes, we have had.

Q. Could you explain very briefly what that experience has been?

A. Well, our experience with paper grain doors coming in from the country are not as satisfactory as wooden doors because of the delays that we often encounter because of reasons attributable to the paper door. They must be properly installed, coming from the country, because of the motion of the car in transit, so they invite [fol. 776] leakage and a loss in transit. They also bulge quite frequently to the point where they bind the outside door, that it may not be opened:

Q. What happens in that situation?

A. Well, originally when the car comes into Chicago, if it is placed on the inspection track, and the door cannot be opened, the inspectors, the federal or state inspectors, cannot gain access to the grain for their sample, and they therefore order the car or ask that the car be put on a rip track so that the door can be opened by someone in the yards.

Q. Who moves it to the rip track?

A. The inbound carrier. He then moves it back to the grain inspection track where it is sampled.

Now, it happens at times, too, where after we have diverted a car from a grain inspection track to our elevator, because of the handling in the Chicago District, a door will bulge, and it gets to the elevator, and we can't get the door open there, either, and there we have one of the two choices, forcing it out ourselves with men who aren't fa-

miliar with—well, they just don't know how to do it, or again, sending it back to some rip track to have the door opened so that we might unload it.

Q. Who moves it to the rip track in that instance?

[fol. 777] A. The railroad does.

Q. Have you had any experience with damage to the car as a result of the use of paper grain doors?

A. Well, yes. I have seen doors that were sprung because of the weight that was exerted outwardly on the door, and even after the grain was taken out of the car, the door was sprung, and it would not close tightly, and therefore it could not be used again for grain reshipments until the door was straightened out.

I have also seen paper grain doors pull out the door posts from the sides of the door on a boxcar because of their construction and the difficulty in getting at them or getting them out, so that the grain may be unloaded.

Q. It has been Cargill's experience that there is more of this damage to the car and more of—

Mr. Murphy: I am going to object to this. I don't think this is appropriate here, to examine him without qualifying him on the basis of study, whether it was on a scientific basis.

Mr. Freeman: I am limiting my question to what he knows and what he knows with respect to Cargill's experience. I tried to be very careful in that regard, Mr. Murphy.

Mr. Murphy: Your Honor, I object to it on the grounds [fol. 778] that any sample—

Mr. Freeman: If you would like me to take the time to go through and qualify Mr. Springrose, I can do it.

Mr. Murphy: I have no desire for you to take time—

Exam. Dahan: I am going to overrule the objection. If you have evidence to the contrary, you can present it on rebuttal.

Mr. Murphy: At the eleventh hour it is going to be difficult to come in with a sample of the experience of the railroads on grain doors to show whether or not this is representative or whether this is a few horrible examples that he has found.

Mr. Freeman: May I point out for the record that the use of paper grain doors was raised by the New York Central, not by us.

Mr. Murphy: We merely mentioned that we use them.

By Mr. Freeman:

Q. Will you continue? I think you were about completed with explaining the damage. I don't know whether you had said anything about damage to the door jams.

A. Well, paper grain doors, as opposed to wooden doors, I might explain first that a wooden door, the total of the full door on the side of a car may and usually is nailed in place with no more than 20 to 25 nails to hold it in. A paper grain door, on the other hand, often requires a [fol. 779] hundred nails or more, and the grain door construction people have now designed a door that has steel straps that extend beyond the door jamb, as the first door did, back along the side of the wall of the car—

Q. You are now speaking of paper doors.

A. I am speaking of paper doors—from where it is further nailed in order to try and stop the bulge that I was talking about before.

Now, on an automatic unloading facility, such as we have in Chicago, when a car is spotted to be tipped and unloaded, there is an hydraulic press that comes up and pushes against the grain door, pushing it into the car. On a wooden board door the door remains rigid, and there are only 20 or 25 nails that must hold, and it all pushes back at once, and the nails come straight out from the door jamb. On a paper door, however, when this press pushes into the center of the paper door, it is only paper with steel straps, and the steel will buckle in the middle and bend inward, but it won't break, and the result is that something has to give; usually if the nails do come out, they are coming out at a 45 degree angle or more rather than coming straight out, and if they are in there real good and the door posts in the car are weak at all, it pulls the door post right out.

[fol. 780] Q. I take it from your previous testimony that you have been along the Kankakee Belt and seen many of the elevator facilities along the Kankakee Belt.

A. Yes.

Q. How many of those elevators and points along the route there do you estimate that you have seen, just roughly?

A. The elevators themselves?

Q. Yes, the whole area. How many of these sidings have you seen? Eight or 10 or 12 or 15?

A. I would say 10 to 12, yes.

Q. Did you see when you were along the Kankakee Belt a supply of wooden grain doors at all of these elevators?

A. Yes, sir, every one, except those that I said before were abandoned or unoccupied.

Q. Large or small supply, would you say, for a country elevator?

A. Well, I think the supply in this picture is representative of what we saw.

Q. I think the record shows that Cargill buys exclusively from the country elevator. Is that your view?

A. That is correct, yes.

Q. In such a transaction does the country elevator always of necessity command a margin for the service it renders?

A. Yes. He doesn't work free.

[fol. 781] Q. And what is it your experience that that margin amounts to on the average?

A. I would say on the average of 1 cent and $\frac{1}{2}$ to 2 cents a bushel. You are talking now about just the normal margins and no other cost.

Q. Yes, no trucking costs and nothing else.

A. All right.

Q. Does one country elevator in the normal operations buy from another country elevator?

A. No.

Q. Or do they operate pretty much as separate entities in their own territory?

A. They all have their own form of producing friends, and they buy from producers and not from one another.

Q. So that a rail country elevator buys from the producer and moves the grain into his elevator for movement out.

A. Yes.

Q. Then I take it the country elevator does not have the expense of a charge to an elevator for the handling of grain such as the river elevators, Cargill's river elevators have, in moving grain via the Illinois River?

A. No, they do not.

Mr. Murphy: I am sorry, I did not hear the question.

(The question was read.)

By Mr. Freeman:

Q. Is corn located in a processing plant at Kankakee or [fol. 782] Indianapolis or Paris or Decatur, the points named in this record, in the same position as corn in an elevator at Chicago?

A. No.

Mr. Murphy: Well, now, I am going to object to this. This witness has been qualified as a traffic man, not a—

Mr. Freeman: I am talking about traffic. If you let me finish, I think that will be clear.

By Mr. Freeman:

Q. What happens to the corn at Chicago in an elevator, to put it in a comparable position to corn—I am not talking about price now—to corn located in a processing plant at Kankakee or Indianapolis?

A. It must be loaded from our elevator into a boxcar and transported to that processing plant at Kankakee or Indianapolis.

Q. Or to some other processing—

A. Or some other processing plant where it is unloaded, and then it is in the same position as the other corn you referred to.

Mr. Freeman: I have no further questions.

Mr. Legg: I have one question.

By Mr. Legg:

Q. Mr. Springrose, what proportion of the total grain originating from the New York Central comes to the area [fol. 783] served by the Kankakee Belt from Kanakee to Morontz?

A. Potential origination? I would say 5 to 7 per cent.

Mr. Murphy: I object to that. The witness is not qualified to talk about potential production and potential shipments or potential source of supply.

Exam. Dahan: Objection sustained.

By Mr. Legg:

Q. Mr. Springrose, are you familiar with the area served by the New York Central Railroad?

A. Yes.

Q. Do you know generally what the nature of the geography is of those areas?

A. Yes.

Q. And what industries—what agricultural production occurs in those areas?

A. Yes.

Q. I will repeat my question now.

Mr. Murphy: Your Honor, I will restate my objection. I don't think he has been qualified by those questions.

Exam. Dahan: I agree.

Mr. Legg: I have no further questions then.

Exam. Dahan: You may cross examine.

Cross examination.

By Mr. Murphy:

Q. You gave tariff references that were available to someone processing corn into products of corn in Chicago. [fol. 784] A. Yes.

Q. Is there any dry corn processor in Chicago?

A. Surely; feed manufacturers process corn in that they mix it into feed, and that is dry corn.

Q. Anyone processing corn into corn products, and I use your language, at Chicago?

A. Dry processor? No, not to my knowledge.

Q. Do you know of anyone as a practical matter that could bill the corn under the tariff provisions applicable at Chicago?

A. Surely.

Q. Who would that be?

A. Any of the feed manufacturers here, and in addition to that, Corn Products, because they ship corn gluten feed and corn gluten meal which are defined in the tariffs that I recited before, and the authority applies via Chicago.

Q. Corn gluten feed and corn gluten oil, was that—

A. Meal.

Q. You indicated that the 6 cent rate from Winstead, Minnesota to Port Cargill—

A. Yes.

Q. —is not comparable. Now, can corn move on that 6 cent rate for the distance, you state that it is 53 miles, and our record shows that it is 59, but can it move for [fol. 785] that distance from Winstead, Minnesota to Port Cargill and move from Port Cargill via lake vessel at the 6 cent rate?

A. No. Lake vessels don't go to Port Cargill.

Q. Thank you, sir.

A. It may, however, once unloaded, there are no further costs attributable to the rail transportation aspect, and therefore it is not comparable.

Q. I am just asking you some questions, and Mr. Freeman is very able. He will bring out what he wants to bring out. Then the 6 cent rate would apply on grain moved from Winstead to Port Cargill even though that might be all of the rail transportation that was ever performed on such grain.

A. It would move from Port Cargill at a local rate.

Q. No. Does grain move from Port Cargill via water?

A. At a local rate, yes.

Q. Does it move from Port Cargill via a water charge?

A. A local rate, yes.

Q. All right, and could it move via water all the way out of the country without having any rail transportation on it after it left Port Cargill?

A. Yes, that is entirely possible.

Q. And do you move grain from Winstead to Port Cargill and then further it by water from Port Cargill?

[fol. 786] A. Yes.

Q. Did you sell any corn to General Foods during 1957?

A. Yes.

Q. They are still a customer of yours.

A. I hope they will continue to be.

Q. Can you tell me how many of these portable elevators that you say you saw are operated by elevators located south of the New York Central?

A. South of the New York Central.

Q. Yes.

A. Cabery, Illinois is south, Moon Station, Campus, Herscher, Buckingham, Irwin, Munster, and Odell. They all are.

Q. They are all south of the New York Central, are they?

A. Right.

Q. Are those elevators on team tracks for the most part?

A. Is this an elevator?

Q. I mean these loaders on team tracks.

A. They are on side tracks. Some of them have connections at both ends, and some of them do not. They are not on the right of way, no. They are on side tracks.

Q. In other words, they could be on what would be characterized as a team track on which there would be no need for a shipper to get a lease before he could load or unload at such tracks?

[fol. 787] A. I suppose so. I was going by previous testimony that 30-day leases were given, and that is why I brought that feature into it. If you don't need a lease on a team track—

Q. Do you know whether these people pick up their loader and take it with them when they have loaded their shipments for that particular day?

A. No, you can't pick up the scaffolding on this picture and take it with you. It is anchored in the ground.

Q. Were they all like that, identical, or was there some variation?

A. There was some variation.

Q. Some of them weren't anchored in the ground.

A. That is right. Whether or not they take them with them when they go home at night, I can't answer. I don't know.

Q. I notice there is a shovel hanging in that picture. Do you know what that is used for?

A. No. It was hanging there when I was there, too.

Q. It wouldn't be used for trimming, would it?

A. No. Trimming is not necessary with a portable sling. The only time trimming at a country level is necessary is when grain piles up in the middle of the doorway and does not fall back to the ends of the car. Then you must [fol. 788] get inside and shovel it to one end or the other so that you can put more grain in. With this sling it will throw corn 20 feet. It isn't necessary.

Q. Did they all have slings, all these elevators that you saw?

A. Yes, yes, they all had slings.

Q. Or loaders.

A. All the loaders—except the one where there was this Vacuator, and that did not have a sling—the Grainovator in Streator, that is a suction thing. There was no sling in that. There again, though, the suction throws the grain.

Mr. Murphy: I have no further questions.

Mr. Freeman: I have no further redirect.

OFFERS IN EVIDENCE

Exam. Dahan: Exhibits 40 and 41 will be received in evidence.

Mr. Murphy: We have an objection.

Exam. Dahan: You have that objection connected with the exhibit. If they are not in effect we won't use them, but by the time this decision comes out, there will be some action taken on those applications, I presume.

Mr. Murphy: They are not applications. They are merely matters pending before rate committees. They are not even filed with the Commission.

Exam. Dahan: We only use rates that are filed with [fol. 789] the Commission in any report, so unless they have been filed, they probably won't be considered.

Mr. Chartrand: Then to the extent to which that page does show rates actually in effect the objection does not go to that.

Exam. Dahan: Well, in so far as the rates are in effect, they are received.

(Protestant's Exhibits Nos. 40 and 41; Witness Springrose, were received in evidence.)

Exam. Dahan: You are excused.

(Witness excused.)

Mr. Freeman: That concludes my witnesses, Mr. Examiner.

J. S. CHARTRAND WAS SWORN and testified as follows:

Direct examination.

The Witness: My name is J. S. Chartrand. I am manager of the transportation department of the Board of Trade of the City of Chicago and am in my third year with this organization. Prior to that time I was seven years as transportation assistant for the Board of Trade at Kansas City and have had continuous experience in transit and transportation matters in the milling business, grain business, feed business, since 1936.

Prior to that time I was superintendent of operation [fol. 790] for one of the larger trucking firms in the country.

I am familiar with the issues in this case and have prepared a number of exhibits, either by me or under my supervision, which to my best knowledge and belief are true and correct, and if the examiner please, I would like to identify these as I go.

By and large the exhibits in many respects speak for themselves, but there are instances where I would like to make brief comments with regard to an exhibit but will not spend undue time with them.

The first exhibit, which is a map which reads in the lower righthand corner "Map A."

Exam. Dahan: That may be marked for identification Exhibit Number 42.

(Protestant's Exhibit No. 42, Witness Chartrand, was marked for identification.)

The Witness: This is a map showing this section of Illinois. We wanted to bring out the general location of the New York Central and the river and its relationship to Kankakee and Chicago.

Prior to the effectiveness of this 5½ cent rate, the general flow of the traffic of corn was by truck from the area around the New York Central to the river loading ports, thence by barge to Chicago as the barge unloading port, and from that point proceeded east by rail.

[fol. 791] Now, in connection with the competitive form of transportation, namely barge and rail, the combination of rates over Chicago applied, namely, the barge rate to Chicago plus the proportional rate to the east. There was no observance of the flat rate from Chicago as a minimum. Therefore, if a railroad seeks to meet competition, they likewise must have Fourth Section relief from the flat rate at Chicago and intermediate points in Indiana.

Now, I would like to make a brief statement with regard to our position in this matter. We feel that the railroads should have a fair opportunity to compete for traffic originating in this territory destined to the east, but when they do, that they must comply with the existing law in all respects.

Our two objections to the rates existing or published by the New York Central on which they here seek Fourth Section relief go to the level, which we feel is low, and secondly, as stated before, our objection to it applies only on corn when milled in transit.

So therefore we occupy somewhat a split position, not being wholly for nor against; we feel that if the carriers are to meet their competition at all, which we feel they are entitled to do, it must be in full compliance with the existing law.

[fol. 792] The next exhibit, which will be Exhibit Number 43—

Exam. Dahan: It may be so marked for identification.

(Protestant's Exhibit No. 43, Witness Chartrand, was marked for identification.)

The Witness: —is headed at the top, "Capacity of principal grain elevators, mills, and malt houses in the Chicago area on June 15, 1957." This lists all of our facilities at Chicago and indicates those that are located on the water and have access to barge service. Thirteen elevators have barge unloading facilities with a total capacity of 58,283,000 bushels. We have tremendous investments in Chicago built upon the river and its low cost transportation, which gives Chicago an opportunity to utilize its natural advantage of being on the Great Lakes, on the inland waterways, as well as being able to be served by truck and rail.

The next exhibit is a 7-page exhibit to be numbered 44, entitled "Statement of grain receipts at the Chicago market, 1935 to 1957 inclusive, via each mode of transportation."

(Protestant's Exhibit No. 44, Witness Chartrand, was marked for identification.)

The Witness: I realize this particular proceeding here is confined to corn, but we have listed the receipts of the major grains and total grains for the purpose of showing [fol. 793] that the barge receipts at Chicago are substantial; it is important to us, and we have a very definite interest in any system of rates that is set up that would have a ruinous effect upon that mode of arrival. For example, page 1 indicates that 21 per cent or better of our wheat is received by barge. Page 2, 26.73 per cent of our corn business arrives by barge, and so forth on pages 3 and 4, revealing oat and soybean figures, 5, an accumulation of the major grains, and 6, the total arrivals at the market. Page 6, for example, indicates that better than 28 per cent of all of our grains arrives via barge. It is important to us in our method of doing business.

Page 7 brings those previous pages up to date, reflecting the 1957 figures, and at this point I would like to refer back to page 2 for the purpose of narrowing this exhibit

down to corn. Page 2 shows the rail receipts for 1956 as 68,702,000 bushels. Page 7 reflects that in 1957 there was received by rail corn in the amount of 99,396,000 bushels, an increase of 44.7 per cent.

Going to the total receipts of corn at Chicago via all modes of transportation, we find that on page 2 in 1956, 98,037,000 bushels were received by all forms, and in 1957, 137,577,000 bushels, or an increase of 40.3 per cent. That [fol. 794] follows directly some of the previous testimony that 1957 was, in so far as receipts and directly reflecting the 1956 corn crop which matured late in the year, a great deal larger than the year before, and I believe that our receipts at Chicago, total receipts of corn, are pretty indicative of about the increase of the 1957 crop over the 1956 crop, 40.3 per cent.

However, when we examine the barge receipts for 1956, we find 26,210,000 bushels, whereas in 1957, 34,199,000, or about a 30.5 per cent increase. In other words, the barge receipts at Chicago did not keep pace with the rail receipts nor with the total receipts at the market via all modes of transportation.

The next exhibit is a three-page exhibit which should be marked Exhibit 45, headed "Annual total rail shipments from Chicago."

(Protestant's Exhibit No. 45, Witness Chartrand, was marked for identification.)

The Witness: We thought it pertinent to show where our shipments go and the extent to which they go eastbound and shows a real interest in this proceeding on our outlets of cars. Page 1 is a statement of the annual total rail shipments from Chicago in all directions. Page 2 are eastbound rail shipments by grains, and on page 3 the percentage of all of our shipments that move eastbound. It [fol. 795] will be noted that in 1956, 64 per cent of the corn moved to the east, and the other grains are shown accordingly. Therefore we have a real interest in grain that comes in by barge, the extent to which it moves to the east, as reflected here, and in the rates that the railroads might establish to meet that competition.

Next is a one-page exhibit to be marked Exhibit 46, headed "Cars inspected versus cars unloaded, on corn only."

(Protestant's Exhibit No. 46, Witness Chartrand, was marked for identification.)

The Witness: Here we set out the extent to which cars that are inspected in Chicago are unloaded in Chicago and reflect a six-year average of 78.7 per cent.

Next is an exhibit to be marked 47, a ten-page exhibit, which reproduces the tariff schedules we have been talking about here.

(Protestant's Exhibit No. 47, Witness Chartrand, was marked for identification.)

Mr. Murphy: Mr. Chartrand, unfortunately I am not quite as familiar with these as you are, and I wonder if you can take these a little slower so I can keep up with them. It is very interesting, and I don't want to miss it.

[fol. 796] The Witness: Off the record, please.

(Discussion off the record.)

The Witness: The next is a ten-page exhibit wherein we have set forth on pages 1, 2, and 3 the amendment to the New York Central tariff which became effective December 15, 1956, wherein they established in their west end tariff the 5½ cent rate.

At the same time there had to be established similar tariff provisions in CTR tariff 535C, which published the proportional rates from Chicago and Kankakee to the western termini points.

On pages 7 and 8 was the corresponding correction made in CTR tariff 245 which would make the initial 5 cent rate applicable to points east of the western termini. All three tariffs became effective December 15, 1956. On pages 8 and 10 are excerpts from the New York Central tariff extending the 5½ cent provision to the CTR territory. I would like to go back to page 2 and refer briefly to circle reference 400, and I will read it in part.

"Rate applies only on corn and corn products when milled in transit." There we have a dual commodity de-

scription, corn and corn products, with the limitation "applies only when milled in transit."

On page 3 we find the source of circle reference 400, [fol. 797] at the lower part of the page, headed "Corn as per grain list in Section 1 of Agent H. R. Hinch's freight tariff 600 HICC Number 4644." When we look at the generic heading of what is to follow, we find that it applies on corn as per the grain list, not the grain products list, but the grain list, and there is enumerated thereunder quite a few stations, all of which are those between Morontz and Van's Siding are included, plus another station or two in there with which we are not concerned.

Therefore we see the establishment on December 15 of the 5 cent rate, subject to circle reference 400, which has a dual commodity listing, "this applies on corn," and yet when we get down to the final analysis as to how the tariff does apply, it only applies when the grain is ultimately—when the corn is ultimately milled some place in transit between origin and final transit destination.

Page 5 is an excerpt from CTR tariff 535C which permitted the utilization of the proportional rate from Kankakee to the western termini points, and I would refer to Pittsburgh and Buffalo as typical thereof.

On page 6, which is an extract from page 4 of the tariff, we find the note, "B-6," which states, and I will read only in part, "Proportional rate from Kankakee will apply on corn and on the following products, in carload, without [fol. 798] regard to the existence of a single factor, joint through rate from NYC stations West Kankakee to Morontz," and there is enumerated thereunder a number of commodities on which this rate only applies. There we have the specific application of a competitive rate to meet barge competition only applying to—on these commodities here. It is interesting to note that this tariff provision does not say anything with regard to only when milled in transit. No language is here. Therefore, the previous tariff we referred to, which was the New York Central tariff 701A, page 2 thereof, the restriction in the New York Central's individual line tariff has projected itself into CTR tariff 535, which an unwary user thereof

would have no knowledge that the proportional rates contained therein are restricted only to apply when milled in transit.

On page 8 is an excerpt or a reproduction of page 2 of CTR tariff 245 which at the bottom of it, under the general exceptions to application of rates, we have a new item, 275, exception to the application of rates on corn and the products thereof.

Mr. Erickson: Would you correct that to read 279?

The Witness: 279. The stations from West Kankakee to Morontz are listed and applies only on the enumerated products, but in this eastern proportional tariff, naming [fol. 799] the proportional rates from Kankakee and Chicago to the Trunkline Territory, we find, applied only when routed via Kankakee and milled in transit. It is this specific restriction against the universal use of all corn to which we raise strenuous objection.

Page 10 hereof is an extension of the destination territory—to the CTR territory which became effective July 30, 1957, and again the generic heading reads "Corn as per grain list of Section 1 of CTR tariff 600-H."

The next exhibit to be marked 48 is a four-page exhibit which is a statement of grain movement from the Kankakee branch of the New York Central Railroad Company from 1950 to June 30, 1957.

(Protestant's Exhibit No. 48, Witness Chartrand, was marked for identification.)

The Witness: On page 1 thereof, the upper section is an excerpt from the respondent's reply, page 7 thereof, showing the entire grain movement from elevators on the Kankakee Belt, 1950 to 1953 inclusive.

The lower part of the page is the extract from page 11, showing the carload car movement from the stations here involved and the destinations to which the corn went for the first six months of 1957.

Page 2 of the exhibit is an excerpt from page 6 of the respondent's reply showing carload corn movements, 1954, 1955, and 1956 from this line of railroad and where it [fol. 800] went.

Page 3 of the exhibit is a summary of the foregoing. I would like to make corrections in the last column due to the fact there are some slight errors in addition by the respondents in the showing here as to the car movement for the first six months of 1957. They are small in nature, but they would be as follows, and I refer now to page 3, the last column: Where Blair reads 255, kindly change that to 249; Lostant, reading 110, should read 115; Milla, reading 112, should be changed to 120; Priscilla, reading 52, should be changed to 55; and the total should be changed from 1905 to 1915.

Mr. Erickson: Would you read the Milla figure back?

The Witness: Milla should be changed from 112 to 120.

Now, after those changes are made, which are slight, we would like to call your attention to the first line, Blair, and remind you that the years 1950 to 1953 inclusive cover entire grain movements as taken from the previous statements. The years 1954 to 1957 inclusive, the last four columns, have an asterisk which indicates at the bottom "Corn movement only." With that in mind, Blair, it will be seen, the largest number of cars they ever had out of that station in the previous seven years was 69 cars in [fol. 801] 1955, and in the first six months of 1957 shipped 255 cars.

Mr. Erickson: 259 is correct.

The Witness: Excuse me, 249. Referring to Dwight, in the seven years prior to 1957 there was a total of 281 cars shipped out of that station, whereas in the first six months of 1957, 244 cars were shipped. Considering Milla, the first seven years, 48 cars were originated, and in the first six months of 1957, 120 cars.

Now, looking at the total, in the years 1950 to 1953 inclusive, a four-year period, covering all grains, the New York Central from that entire line shipped 1,722 cars, whereas in the first six months of 1957, they shipped 1,915 cars of corn alone. Considering now the years—the last three years, 1954 to 1956 inclusive, which only covers corn, there was shipped from that line 1,327 cars, total of three years, and 1,915 cars in the first six months of 1957.

Now referring to page 4, wherein we take a look at where the cars went in the years 1954, 1955, and 1956, and the first six months of 1957. I would like first to refer to Kankakee, and I will then come back to the Chicago showing. In the first column, in 1954 no cars from Blair to Kankakee, 1955, eight cars to Kankakee; 1956, eight cars; and the first six months of 1957, 121 cars. Dwight, I [fol. 802] would like to call particular attention to Dwight, from 2 cars to 101; Lissant, from 6 to 60; Milla, from 5 to 105; Union Hill, the highest year was 38 cars in 1956, to 150, making a total into Kankakee of 809 cars in the first six months of 1957, wherein only 24 cars moved in 1954, 91 cars in 1955, and 79 cars in 1956.

The same picture, to a degree, is self evident in so far as the cars that went to Indianapolis, and I will only refer to one, and that is Union Hill, which had no cars in 1954, none in 1955, 14 in 1956, and 115 in six months of 1957, and a total of their receipts were 263 cars.

The third is Paris, Illinois, and the exhibit speaks for itself.

Now, here are three processors, corn millers, that testified in these proceedings, and it is apparent why they want this rate to continue. The three of them received 64.1 per cent of the total number of cars that originated on this line in the first six months of 1957.

After the Paris showing there was miscellaneous. I took all other cars, the destination of other cars, and threw it into one category. I might mention that the town of Danville is included in that miscellaneous figure, which had 99 cars, which if added to the other corn millers would bring the total by the corn milling interests off of this [fol. 803] line up to 70 per cent at the bottom, the total picture is evident and speaks for itself.

The next exhibit—excuse me. I stated that I would come back to Chicago. I don't mean to miss that. It will be noted in the total column that in 1954 we at Chicago received 220 cars; in 1955, 330 cars; 1956, 368 cars; and in 1957, 548 cars, which would lead one to conclude that Chicago hasn't done so bad, either. We may not have done as well as Kankakee from a high of 91 cars to 809 cars, but we

don't see a falling off of business into the Chicago market. But to gain a true insight of the picture, it takes an analysis of those 548 cars to see what type and character they were. I would like to remind you at this point, the processors at Kankakee, Indianapolis, and Paris predominantly utilize free corn, as stated on this record. Now, of the cars that came into Chicago, let us examine the extent to which those were free corn.

The next exhibit, 49, is a six-page exhibit headed "Statement of corn receipts at the Chicago market originating on the Kankakee branch of the New York Central Railroad, November 1, 1954 to October 31, 1957."

(Protestant's Exhibit No. 49, Witness Chartrand, was marked for identification.)

The Witness: We were very curious to see to what [fol. 804] extent free corn was arriving at this market.

Page 1 thereof shows that we have taken by months this line of railroad, station by station, to ascertain the monthly figure or monthly total of free corn and the monthly total of CCC corn. You will note that we have split the month of December into two parts, December 1 to 14 and also December 15 to 30, to which I will later refer.

The exhibit speaks for itself, and I refer now to a recapitulation on page 5, which shows that for the first six months of 1955 the Chicago market received 45 cars of free corn from that line of railroad. In the first six months of 1956, 130 cars. The first six months of 1957, 31 cars. Taking the ten-month period, 98 cars in 1955, 272 cars in 1956, and 45 cars in 1957.

Page 6 thereof is a summary showing the annual totals, the year beginning November 1, 1955 and ending October 30, 1956, which would in fact be the sum of the first three columns, we received 276 cars of free corn. In the corresponding period, one year later, we received 52 cars of free corn. Breaking the day—starting with the day that this rate became effective, December 15, 1956, the prior year shows 273 cars as compared to 46 cars during the effectiveness of this rate.

The next exhibit, Number 50, is marked "Map B," which [fol. 805] shows in particularity the area we are most concerned with here and sets out the trucking distance from shipping points on the line of the New York Central to the river loading port.

(Protestant's Exhibit No. 50, Witness Chartrand, was marked for identification.)

The Witness: Now, in ascertaining this mileage we found the New York Central shipping points and related it to the river loading point most prominently used by them. We did not arbitrarily pick Morris, Illinois from Sunbury. That is the way the traffic had moved, and we show our mileages accordingly.

Next Exhibit, 51, is the contract carriers' tariff on file with the Illinois Commerce Commission and states therein rates for hauling corn and the other grains, both from the farm to an elevator or from an elevator to an elevator.

(Protestant's Exhibit No. 51, Witness Chartrand, was marked for identification.)

The Witness: In checking into this situation we gathered a considerable number of trucking prices from elevators in this territory to the river and found out that by and large the truckers adhere to the scale set forth in this tariff. I have been watching it carefully, and you, too, [fol. 806] can check from the record to find the consistency between the charges here and those that are generally charged in the country.

Now, I will agree there are instances where a trucker will take a distress load for something other than an established charge, but by and large we found that the actual experience followed this tariff, and in determining rates for the future we felt that this stable publication was one that we should look to.

Page 1 therein is an excerpt from page 3 of the tariff. Page 2 of this exhibit is an excerpt from page 16 of the tariff. All of the intervening pages are lists of participating carriers, solid pages just like these. There are better than 800 contract carriers that are parties to this tariff and on which their charges are based.

The excerpt from page 3, you see the second line, Raymond Acuff, from Ottawa, Illinois. Farther down the page, Anderson Brothers at Seneca. Another one, Buy Applebee, at Ottawa. Later, J. Barker at Essex.

Next page, Weber Brothers at Lockport, and Robert Wright at Marseilles, names that are familiar to us here.

Now, there are also other truckers located at other towns that we have not spoken of here, but would be free to do trucking business in this area.

Mr. Erickson: As clarification, you wouldn't wish to intimate that this is the only truck tariff on file with the [fol. 807] Illinois Commerce Commission. There may be others.

The Witness: Yes, that is right.

Page 3 of the exhibit is an excerpt from page 27 of the tariff which shows in item 610 the rate from the sheller to the market; item 620, the rate from elevator to elevator or elevator to terminal.

Now, the question was asked this morning about, well, if it is 18 miles from Dwight to the river and it is only 10 miles from the farm to the river, wouldn't it be less from the farm to the river. Now, let us look at that here. In item 610, 10 miles, under the first column, headed "shelled corn," $3\frac{1}{4}$ cents a bushel. In item 620, for 18 miles, the trucking, from elevator to elevator, is 3 cents a bushel. As was intimated, the length of time necessary to load at the farm or the sheller has been taken into consideration here, and we find generally the rates from the farm to the elevator on somewhat a higher basis than from an elevator to an elevator where the trucker can just put his truck under a spout and let the grain gravitate in there.

I would like to call your attention to the five-mile bracket, wherein from the farm to the elevator, 3 cents a bushel; from elevator to elevator, 2 cents a bushel. Fifteen miles, from farm to the elevator, $3\frac{3}{4}$ cents a bushel; whereas [fol. 808] from elevator to elevator for 15 miles, $2\frac{1}{2}$ cents a bushel. There is a cent and a quarter a bushel more for hauling it from the farm to an elevator than from

one elevator to another elevator for exactly the same distance.

Now, Item 630 at the bottom of the tariff raised a question in our mind as to its conflict with item 620, and upon contacting the publishing agent we have found that item 630 should be canceled, and our next exhibit, 52, is an excerpt from Supplement 10 of this same tariff wherein item 630 has been canceled, leaving item 620 to cover the trucking charges from elevator to elevator.

(Protestant's Exhibit No. 52; Witness Chartrand, was marked for identification.)

The Witness: The next exhibit, 53, is a conversion table on corn which we may wish to make reference to before we get through, converting cents to bushels and bushels to cents on corn.

(Protestant's Exhibit No. 53, Witness Chartrand, was marked for identification.)

The Witness: The next exhibit, 54, is a 12-page exhibit headed "Statement of barge loading prices and New York Central track loading prices from January 1, 1957 through August 31, 1957."

[fol. 809] (Protestant's Exhibit No. 54, Witness Chartrand, was marked for identification.)

The Witness: We know, and has been stated amply upon this record, that the effect of rates find their way directly upon the country price in this territory. We could not approach this from a cost standpoint because we didn't know what all the incidental costs through elevators and trimming charges were concerned, but we felt this, that the price at the river quoted by the river houses included all costs. Likewise, the track price—

Mr. Murphy: I am going to object to his testifying about what the price at the river included. I don't think that he is qualified to testify as to what that price included.

The Witness: Mr. Examiner—

Mr. Murphy: I have an objection pending.

The Witness: I would like to answer that objection as counsel.

Mr. Murphy: You have a counsel.

The Witness: He is not my counsel.

Mr. Erickson: I am not counsel.

Exam. Dahan: We will be off the record.

(Discussion off the record.)

Exam. Dahan: Come to order.

The Witness: Mr. Examiner, in face of that objection [fol. 810] I would like to withdraw that statement and proceed therefrom.

In stating our position in this matter we felt that the New York Central rates were too low and, in searching for a solution thereto, as to what would be an equitable basis, we looked to the prices at the river and the New York Central track prices for our starting point.

Now we felt, as a preliminary statement to our process here, that the 5½ cent rate was too low, and we felt than an 18 cent rate was too high. We knew for sure that the existing rail rates were not competitive rates. It has here been suggested that 18 cents, based on cost, would be the kind of a rate, about which we have serious doubts, about being too high, so we proceeded from a price standpoint, since as has been stated here that the return to the country elevator or return to the producer is the thing that causes the traffic to flow either to the river or to the railroad. Our limitation with regard to knowledge of cost was another factor that caused us to look at this practical approach.

On page 1 thereof we obtained the Illinois River barge loading prices for the month of January at Spring Valley, LaSalle, Ottawa, Seneca, Morris, and we have shown in the last column the average price.

We proceeded throughout the month of January and [fol. 811] have shown at the bottom the average price for that month, which in the last column shows \$1.2843 as the average Illinois River barge loading price for that month.

We proceeded in the same manner through the first seven months of 1957 as shown on pages 1 through 5 inclusive. Then on page 6 we obtained the New York Central track prices at Lostant, Milla, Streator, Missal, and Reddick,

and the New York Central price range. In the previous pages we find greater consistency or less range between the river prices because of the knowledge that they can obtain quickly with regard to their competitor's pricing situation, whereas on the New York Central these figures speak for themselves; apparently they are not as quick to know all the way along the line to the extent—what their competitors are doing, but these are the prices taken for the month of January which are averaged out and show in the last column an average price of \$1.3055 cents per bushel, and we continued to take those prices through the first seven months of 1957 on the New York Central.

Page 10 thereof is a statement of those monthly averages, and I would like to refer to January, in order that it would be clear, and at the top of the headings we have Lostant, Milla, Streator, Missal, and Reddick, and accordingly, on the first line we give the New York Central price taken from the previous pages, at Lostant \$1.3058.

In the second part of the heading we see the river barge loading points, Spring Valley, LaSalle, Ottawa, Seneca, and Morris, with the average river price, and on the second line in January the word "river" indicating the river price of \$1.2842.

Now, comparing in January Lostant versus Spring Valley, an average for the entire month, the New York Central was over the river to the extent of 2.16 cents a bushel basically, without regard to trucking, and at the other stations accordingly. The balance of the page shows the monthly averages, comparative analysis between the river and the New York Central for the seven months, and at the bottom of the page the seven-month average.

We were searching for some equitable—something constructive to offer here to show the situation wherein the New York Central and the river might be in as equitable a position as possible, all things considered. So at the bottom of the page we have averaged the seven-month comparison. We see the differences hovering around 2 cents a bushel, Lostant and Spring Valley, 2.07, Milla and LaSalle, 1.99, and in the last column, 2.02 cents a bushel that the New York Central was at an average along the entire rail-

[fol. 813] road—excuse me, along the entire line here involved, and the river loading points from Spring Valley to Morris on an average. The extent of the range between the highest point, the maximum range, that the New York Central was over the river as compared to the minimum side of the range, the maximum was 2.40 cents a bushel, and the minimum was 1.64 cents a bushel, or a range of .76 or three-quarters of a cent a bushel that the New York Central was over the river within that range at all times.

On page 11 we proceed to readjust the New York Central price taking into consideration this 2 cents that they are basically over to begin with and the trucking that might be involved from their various shipping stations to the river loading point.

For example, in the heading of the first column we say "trucking, a bushel, 2 cents." In the second column, 2½ cents; the third column, 3 cents; fourth column, 3½ cents; fifth column, 4 cents. In other words, if we applied the trucking tariff referred to before to the mileages referred to on Exhibit 50, we find that as we proceed eastward the New York Central shipping station is farther away from the river, and there is more trucking involved. So the extent of that trucking, which we firmly believe should be considered, in addition to the extent that the New York Central was over the river basically and without consideration of trucking, those two factors are what we take into consideration in readjusting the New York Central price.

Now let us start in the column that says 2 cents trucking, and I would like you to have Exhibit 53, the conversion table, before you, so we can see how this converts from cents to bushels and from bushels to cents.

Considering first that the New York Central price was 2 cents over basically, and then adding thereto 2 cents trucking from nearby points, that is 4 cents a bushel, and if we look in our conversion table, we find that 4 cents a bushel is equal to 7.14 cents a hundred. In our opinion that is the extent to which the New York Central rate is too low at that 2 cent trucking point, lower than necessary to meet the competition. We have resolved that 7.14 cents adjustment into an even 7 cents. That is the reason, at the top of

column 1, we have 7 cents, which reflects 2 cent trucking to the river and 2 cent basic adjustment in the price.

Now, what is the effect of that? If we relate that to the existing prices in January, on the New York Central there was \$1.3055 price. That was the average New York Central price, we readjust that rate 7 cents a hundred which, [fol. 815] on the conversion table, is 3.92 cents a bushel, and when we raise the New York Central rate, we correspondingly bring the country price down. Therefore, we reduce the price that the New York Central would be able to pay, reduce it from 130.55 to 126.63.

Now, at that same time and at that same station we look and see what the river price is, 128.43, but there is 2 cents trucking from that New York Central station to the river, which brings that river price at the New York Central country elevator, where 2 cents trucking is involved, down to 126.43. Therefore, we have narrowed that as closely as we possibly can, and under that readjustment the New York Central price would still be .2 of a cent a bushel over the river.

Now, I might say by further explanation that in approaching this problem we felt this, the New York Central Railroad was here seeking to place shipping points, elevators, on their railroad in a competitive position with the barge-rail competition, and we start from the New York Central shipping point on which our procedure here is based and disregarding the trucking from the country, the location of the farmer's farm. I have never been in a rate proceeding, nor have I heard of one, where, in establishing railroad rates, they took the location of the farmer's farm. [fol. 816] Sometimes he is between the competitive point, sometimes he is on one side, sometimes he is on the other, but we could not—and his natural advantage or geographical advantage or disadvantage, in our opinion, has no place in this picture. So therefore we approach it from a railroad, like the New York Central seeking to place their shippers on their railroad in a competitive position, upon which this adjustment is based.

Now, Exhibit 52 showed mileages from Morontz to Spring Valley of 4 to 10 miles—excuse me, 4 miles, Granville was 4 miles. That is the low end of the trucking and

would be the 2 cent column that we here talk about. On the east end we look at Union Hill, and there is 28 miles, and according to the truck scale that would approximate 4 cents a bushel which I believe has here been testified to. So therefore we have taken, broken the line up, putting it in categories as to its proximity or distance from the river and have taken that trucking cost into consideration plus the extent to which the New York Central was basically over at their shipping point.

I would like to give an example of the significance of that basic 2 cent difference. Suppose, for example, that Morontz, or this line of the New York Central, ran into Spring Valley. I use this as an example. And this same condition exists. The New York Central would have at Spring Valley [fol. 817] 2 cents a hundred higher than the river house because it is a price difference without consideration of trucking.

Mr. Murphy: I object to that statement and ask that it be stricken because the New York Central does not run into Spring Valley.

The Witness: All right.

Therefore, on page 11 we proceed from January, and on page 12, through the seven months, and in following the readjustment from the 2 cent trucking area, $2\frac{1}{2}$ cent, 3, $3\frac{1}{2}$ cent, 4 cent, on the basis of a seven-month average. What would result from an upward revision in the rates to the extent indicated, namely, from 7 cents in the 2 cent zone upward, the $10\frac{1}{2}$ cents in the 4 cent trucking zone, how would the river and the New York Central stand on that seven-month average.

The bottom of page 12 indicates that from the 2-cent zone the New York Central would be .1 of a cent a bushel over the river, taking into consideration trucking and the basic price difference; from the $2\frac{1}{2}$ zone would be .04 of a cent a bushel over; from the 3 cent zone would be .2 of a cent a bushel under; from the $3\frac{1}{2}$ cent zone, .08 of a cent under; and from the 4 cent zone, .14 of a cent over.

[fol. 818] Now, translating that into what actually would happen, I would like now to refer to the next exhibit, Number 55, where we show that on a map, reading "Map show-

ing trucking from New York Central origins to the river; also suggested rate level to meet competition."

(Protestant's Exhibit No. 55, Witness Chartrand, was marked for identification.)

The Witness: Beginning at the west end, that 2-T means 2 cents trucking to Spring Valley, and if the rate were increased 7 cents a hundred from that zone, as referred to on page 12 of the previous exhibit, 7 cents increase plus the existing $5\frac{1}{2}$ would raise the New York Central rate at Granville and Morontz to $12\frac{1}{2}$ cents.

From McNabb through Streator, all falling within the $2\frac{1}{2}$ cent trucking zone, the rate would be increased 8 cents a hundred or to $13\frac{1}{2}$ cents. From that area, Missal through Dwight, the 3 cent trucking zone, the rate would be increased 9 cents per hundred to a total of $14\frac{1}{2}$. Blair would be in the $3\frac{1}{2}$ cent trucking zone, which would make its rate $15\frac{1}{2}$, and Union Hill, in the 4 cent trucking zone, which would result in a 16 cent rate. As has been stated on this record, and we knew before, that the farther you get away from the river, the less intense the competitive situation is, and therefore, the extent to which there might not need [fel. 819] to be such a drastic reduction as there might be in close proximity to the river.

The next exhibit, 56, is a statement of simple and weighted average distance of the Kankakee Belt Line branch of New York Central, very much the same as already in the record, and the effect of our showing here is very little different, but it does point out that on a simple average distance and on a weighted average distance the breaking point is all within the 3 cent trucking zone or the $14\frac{1}{2}$ cent readjusted rate.

(Protestant's Exhibit No. 56, Witness Chartrand, was marked for identification.)

The Witness: The next exhibit, 57, is a route map showing the McGraham formula to the east, and in the upper lefthand corner are the existing grain rates brought down to date, and the grain products rates would be $\frac{1}{2}$ cent higher than that shown in the chart.

(Protestant's Exhibit No. 57, Witness Chartrand, was marked for identification.)

The Witness: The next exhibit, 58, is Map C, wherein we set forth that part of Illinois north of which the rates to the east are based on the Chicago combination. We show it this way; from that large central group the rate to Chicago is 25, the grain rate to New York is $53\frac{1}{2}$, and the through rate is $78\frac{1}{2}$.

[fol. 820] (Protestant's Exhibit No. 58, Witness Chartrand, was marked for identification.)

The Witness: The gathering rate, the proportional rate, and the total is shown in the various groups indicated.

Likewise grain products rates to New York would be $\frac{1}{2}$ cent higher since the proportional rate from Chicago to the east is 54 cents instead of $53\frac{1}{2}$.

Exhibit 59 is a statement of routes in connection with the Kankakee proportional rate on grain products to western termini points and to trunk line destinations, also the direct rates versus rates via Chicago.

(Protestant's Exhibit No. 59, Witness Chartrand, was marked for identification.)

The Witness: Page 1. What we have done here is taken the rates and routes to a western termini point, Buffalo. Then immediately thereunder we have taken the rates and routes to a point just east thereof in the trunkline territory of which Rochester is typical.

Looking at the first grouping of routes we find all of the routes in connection with the NYC-W are direct routes, none of which apply through Chicago. In the first rate column it is indicated that $47\frac{1}{2}$ cents would be the rate to Buffalo, namely—that is on these corn products— $51\frac{1}{2}$ to Kankakee and 42 to Buffalo, $47\frac{1}{2}$; whereas, if you [fol. 821] routed to Chicago, New York Central to Buffalo, you would pay the 25 cent rate to Chicago plus 42 cents beyond.

Now, the second bracket shows what we have to do to compete with the direct rate. The second bracket shows routes in connection with the IC Railroad. The IC has a direct route through Indianapolis and the B&O, and then

there are a number of routes via Chicago and connecting lines of which the New York Central-M is one. Therefore, if we buy grain on this line and we go to Buffalo, we must route it New York Central to Kankakee, IC to Chicago, and then New York Central in order to get the 47½ cent rate.

Now, suppose one of our people at Chicago processes this and sells it to a feed manufacturer in Buffalo. In order to get there for the 47½ cent rate it must have moved New York Central, Kankakee, IC, Chicago, and let's say the New York Central.

Now, the man at Buffalo puts it into feed, and he wants to go to Rochester.

We find there in the first bracket of New York Central routes you have a number of routes, NYC-W direct, or you have NYC-W Chicago, thence connecting line. In other words, if you are going to Rochester, you can route this New York Central Chicago, New York Central. But if you [fol. 822] are only going to Buffalo, you must come in here IC. You have adverse routing into Buffalo that you cannot possibly fulfill going through Rochester.

Mr. Murphy: May I ask a question for clarification? What you are saying is the fact that we have restricted routing to CFA, but unrestricted routing to trunkline and termini, is it?

The Witness: What I am saying is that this is a trouble you are getting into when you no longer break rates over Chicago but you take another place downstate and you start breaking rates over it, against the entire historical pattern.

In the second bracket of the Rochester showing it will show that there are no proportional rates from Kankakee to the trunkline territory in connection with the IC. Therefore, if you routed it into Chicago IC in the first place, you cannot utilize that tonnage going to the trunkline territory.

Now, the second showing on this page is Pittsburgh versus Altoona, which is the same situation and shows the routes to a termini point and to a trunkline point.

The next exhibit, Number 60, is a statement showing the mileage of—I might say it is headed "Statement of New York Central mileages direct and when via Chicago

and Indianapolis from Streator with percentage of circuitry [fol. 823] involved. We used Streator as a representative origin on this line.

(Protestant's Exhibit No. 60, Witness Chartrand, was marked for identification.)

The Witness: The next exhibit, 61, is a five-page exhibit entitled "History of rates on grain and grain products to the east reflecting Chicago combination; also relationship between grain and grain products rates between—1907 to 1958."

(Protestant's Exhibit No. 61, Witness Chartrand, was marked for identification.)

The Witness: Page 1 thereof, and I will only refer to the New York column, on the last line gives us the rates in effect July 10, 1956. It will be noted that the proportional rate from Chicago to New York on grain was 49, and on grain products, 49½. There was a half a cent spread that the grain products rates were over grain at that time. That is true back to March 20, 1918 where, if you will see, the proportional rate to New York was 19½ on grain, and on grain products, 20. Grain products have been a half a cent over grain during that entire time.

Now, going back to 1907, it did not hew strictly to the half cent spread between them, but there was a cent or less spread between grain and grain products even back [fol. 824] to that time.

Page 2 is a statement showing grain rates, including whole corn, from this line of railroad, and we take the entire line, showing in columns 2 and 3, from Zearing to Depue, that is the first station west of Morontz, and from Morontz to Streator and from Missal to Union Hill and West Kankakee to Kankakee.

Starting under the present level of rates, Ex 206A back to the rates that existed on December 31, 1919, in every instance the rate to New York on domestic traffic was the Chicago combination from the entire line.

The excerpt shown below is really an excerpt from a Commission decision showing the establishment of the Chicago combination back as far as 1907.

On page 3 is the same information, only at $\frac{1}{2}$ cent higher level because historically, clear back to 1919, the rates on grain products were $\frac{1}{2}$ cent higher than grain.

Now, the excerpt under that—

Mr. Murphy: I am going to object to the introduction into the record as evidence of these excerpts.

Exam. Dahan: I am going to let them stay in here. Objection is overruled.

The Witness: Page 5 shows the same chronology of [fol. 825] rates, only on products of corn from this entire line to New York. We find the columns Zearing to Depue exactly as the previously exhibit, which are based on the Chicago combination, because they were not treated by the New York Central in this reduction. Then in the columns Morontz to Streator and Missal to Union Hill we see Kankakee combinations under Ex 206A of $59\frac{1}{2}$ cents from Morontz to Streator and also $59\frac{1}{2}$ cents Missal to Union Hill, whereas from Kankakee the rate still remains 72 cents, which is the Chicago combination.

The first three lines take us back to the time that the 5 cent rate became established, and prior to that time the rates will all be the Chicago combination, exactly the same as shown in the previous exhibit which applies on grain products other than these corn products.

The next exhibit, 62, is a statement of rates on whole corn and products of corn from origins on the Kankakee Belt Line of the New York Central to New York.

(Protestant's Exhibit No. 62, Witness Chartrand, was marked for identification.)

The Witness: It considers the entire line, taking first from Zearing to Depue, not here involved—or Zearing to Depue, not considered by the New York Central—then from Morontz through Union Hill and West Kankakee.

The exhibit will show that on whole corn, to which this [fol. 826] page 1 goes or is directed, is based on the Chicago combination.

Page 3 is a statement showing the same station, and the rate picture under products of corn here involved.

I would like to make one reference to a competitive rate that is in effect, and I refer to Ladd on page 3. In the

second to last column you see a 14 cent rate to Chicago, an interstate rate to Chicago, on the North Western, which is a published rate and in effect today which when used to the east is subject to the flat rate from Chicago as a minimum, which requires that 18 cent pad shown in the last column.

In other words, here is the North Western that reduced rates into Chicago, but the effect of the reduction has been nullified by the fact that the Chicago flat rate governs. Now, that is the very thing that the New York Central is confronted with here: They want to reduce a rate. While it is far too low in our opinion, the extent to which it might ever fall below 18 cents, they would need relief from the flat rate in order to make it useful. There are only two that I have shown here that are rates that are in effect today, and that is at Ladd and Depue, 14 cents. I might state further, going to Ladd it will be seen that on the CB&Q, in the last column, there is a 20 cent rate which is a competitive factor to New York. That 20 cents is above the 18 cent minimum pad or the Chicago flat rate; therefore, you can take 20 cents to Chicago, plus 54 to New York on grain products and establish a total of 74 cents, whereas from Ladd the New York Central have not even met that competition but still have a 79 cent rate.

Page 5 is self explanatory. It shows the rates in effect December 14, 1956 and December 15, 1956 brought up to the current Ex 206A level.

There we can see the rates accorded whole grain, other than corn, whole corn, grain products other than corn products, and the corn products before and after this 5 cent rate went in effect.

Page 6 thereof is a statement comparing the corn and the corn products rates from Morontz as a typical western station to Buffalo and points east thereof on whole corn, corn products, and grain products other than corn. Now, let us take whole corn to Buffalo from Morontz. 66½ cents on whole corn. The Chicago market sells corn to that gentleman on the basis of 66½ cents from Morontz. If he manufactures that into feed or he mills it within the tariff provisions and goes to Rochester, the through rate to Rochester is 52½ cents, and there is a three-way rule provision under

[fol. 828] transit whereby the rate from origin to Buffalo, if higher, will apply as a minimum. That transit operator has overpaid into his transit station at Buffalo to the tune of 14 cents a hundred, whereas, if it were processed at Kankakee and went to Rochester, no such 14 cent penalty would arise.

There are two other examples on the page which follow the same example. I might say, before leaving that, corn into Buffalo was $66\frac{1}{2}$. Looking in the last column—excuse me— $\frac{1}{2}$ corn and oats, for example, into Buffalo would be $66\frac{1}{2}$. Now, if it were processed at Buffalo into oat products and went to Rochester, the rate would be 72 cents, as it was, has always been, differentially over Buffalo, and the three-way rule would not come into operation.

Page 7 is a statement of grain rates from western origins to New York. We begin at Ashtabula, Ohio, and we work westward. It is a statement of the grain products rates with $47\frac{1}{2}$ at Ashtabula, upward, until we get to Porter, Indiana, where it is $69\frac{1}{2}$ to New York domestic; we get from Dwight to Streator, the rate is dropped to $59\frac{1}{2}$, and then we go out to Ladd and Zearing, untreated here, to 79. The last column shows the picture on other grain products.

The next exhibit, 63, is a statement of prices taken [fol. 829] from the Wall Street Journal and from mill feed brokers or feed stuff brokers here in Chicago as of January 27, 1958, which shows the value of some of the products here enumerated, gluten feed, \$41 a ton; gluten meal, \$74 a ton; mash-spent grain, dried, \$52 a ton; brewer's grain, \$52.50 a ton, as compared to the value of whole corn reduced to a ton basis of \$40 per ton.

(Protestant's Exhibit No. 63, Witness Chartrand, was marked for identification.)

The Witness: The last exhibit, 64, is a graph which portrays—the source of which was from the waybill analysis termination studies, 1948 to 1956 inclusive, and covers numerous grains as is clear thereon.

(Protestant's Exhibit No. 64, Witness Chartrand, was marked for identification.)

The Witness: We point particularly to the average revenue for short line car mile taken from the waybill analysis termination studies published by the Commission on corn from the period 1948 to 1956. The lowest earning per ton mile was 73 cents and the highest was 95 cents, whereas Witness Graves, in his Exhibit 28 on page 7 thereof, showed an average car mile earning of 50.69 cents per car mile.

Mr. Murphy: Are you referring to Witness Herron rather than Witness Graves?

[fol. 830] The Witness: It might have been Herron, that is right. That is right. It was a comparative analysis of the car mile earning on corn here involved and on other commodities.

That completes my presentation.

Cross examination.

By Mr. Freeman:

Q. Your prices are on number 2 yellow corn?

A. Oh, yes, basic number 2 yellow corn.

Mr. Freeman: That is all.

Exam. Dahan: Mr. Murphy?

Mr. Murphy: I was going to suggest the noon hour recess.

Exam. Dahan: Is your cross examination going to be lengthy?

Mr. Murphy: Frankly, I don't know.

Exam. Dahan: Let us recess for one hour.

(Whereupon, at 1:15 p.m., a recess was taken until 2:15 p.m. of the same day.)

[fol. 831]

Afternoon Session

2:15 p.m.

Exam. Dahan: Come to order. Do you have some further direct testimony you would like to present?

J. S. CHARTRAND resumed his testimony as follows:

Direct examination (continued)

The Witness: I would like to ask leave to make one statement that I am afraid I did not make clear and summarizes my conclusions with regard to the evidence here submitted, and I would like to refer to Exhibit 55, which was the map which showed the rates proposed.

I did make reference to the fact that the simple average and weighted average distance fell within the 3 cent trucking zone, but failed to state that in our opinion the rates along this entire line should be blanketed, like they have in the past, on the basis of that simple average or weighted average distance; in other words, that there should be along the entire line, from Morontz to Van's Siding, if that is the most easterly point, a single rate of $14\frac{1}{2}$ cents. I consider the treatment along the river of the stations from Morris through Spring Valley as a unit because of the pricing situation; and secondly, the treating of the entire line as a unit already by the New York Central, in our opinion, that it should be blanketed, but at this higher rate of $14\frac{1}{2}$ cents. [fol. 832] That concludes my statement.

Exam. Dahan: Mr. Murphy?

Mr. Murphy: Is there any additional direct questioning?

Cross examination.

By Mr. Murphy:

Q. Mr. Chartrand, in your Exhibit Number 44 you indicate that increase in the receipts of corn at Chicago market, on page 2, is that correct?

A. Of 1957 over 1956.

Q. That is correct. And that increase, as I understand it, was from 98 million bushels to 137 million bushels,

A. Total via all forms of transportation.

Q. That increase is in the nature of 40 per cent, is it not?

A. Yes, 40.3 per cent.

Q. Mr. Chartrand, are those increases in receipts in direct proportion to the increase in the production of corn 1957—1956 crop year over 1955 crop year?

A. No, I don't say that, but there have—

Q. Well, just—

A. No.

Q. Let me ask you this question then: is it a much greater increase than the increase in production?

A. I can't be sure. It does reflect the increase in receipts. [fol. 833] Q. You don't know anything about increased production then.

A. No, I do not.

Q. Mr. Chartrand, you indicate on this same exhibit the amount of the receipts via several modes of transportation. Do you know where this corn that was brought to Chicago by railroad originated, what general areas?

A. No. It is our total receipts.

Q. Do you know how much of that corn comes to Chicago by rail from the Illinois River area?

A. No, I do not.

Q. Do you have an opinion as to whether it would be a substantial portion of the 139 million bushels or 137 million bushels?

A. I only know this, that Illinois and northern Illinois is a heavy corn-producing section, and I would say that a substantial portion came from northern Illinois, and I wouldn't confine it to this particular area, but it would be part and parcel of northern Illinois picture.

Q. How many states does the Chicago Board of Trade draw from? I mean, would these receipts reflect?

A. I would say that the natural trade territory tributary to the Chicago market would probably extend eastward somewhere in Indiana, probably a north and south line [fol. 834] probably bisecting the state, would extend southward through half of Illinois and then probably west into Iowa, southern Minnesota and southern Wisconsin.

Q. You indicated in your testimony that x-barge corn at Chicago moves east by rail. Do you know what proportion of that would move east by rail?

A. No, I do not. I would say—I would have the opinion that it would be a large amount because that is the only direction that the barge tonnage is good for the proportional rate; therefore, the barge tonnage could not be used to the west or to the south or to the north.

Q. Well, directing your attention to your Exhibit Number 45, you show there that the rail shipments from the Chicago market for the year 1956 were 37 million bushels, in rough figures, and on your Exhibit Number 44 you show that the total receipts of corn at Chicago for that year were 98 million bushels. Is there a substantial movement of corn on the lake east?

A. Yes; yes.

Q. This corn, this x-barge corn could move east on the lake also, could it not?

A. Yes, if you want to throw the billing value away. That wouldn't be prudent.

Q. Well, now, you have rail arrivals at Chicago of 68 million that year. Do those rail arrivals have any billing [fol. 835] advantage?

A. Well, some of those rail arrivals, for example, might move into Chicago on an intrastate rate and have subsequent movement beyond Chicago by lake.

Q. Well, some of the rail arrivals—is rail billing not used the same as barge billing might not be used if it moved by barge—moved by lake vessel?

A. Well, I will say this: we almost get into a difficult problem with regard to the value of individual billing, whether it be by barge or by rail—

Q. I wasn't attempting to get into something complicated other than find out if it isn't a fact that x-barge corn does move east by vessel.

A. Well, that is true.

Q. Thank you.

A. Just a moment. It does move east—the corn could move east, but the billing could be retained and utilized by rail on other corn to the east.

Q. Then the x-barge billing is valuable billing.

A. Yes.

Q. Mr. Chartrand, on page 5 of your Exhibit Number 49 you indicate that the rail movement of free corn to Chicago from Kankakee Belt origins in 1956 was higher than in 1955 and higher than in 1957. Isn't it a fact that that was an unusual situation in 1956, sir?

[fol. 836] A. Not to my knowledge it wasn't. Free corn, a price will always move free corn, and that 272 cars in

the first ten months of 1956 moved freely into the Chicago market.

Q. Did you notice the disparity between the 1955 and 1956 figures when you were preparing this exhibit?

A. You mean an increase from 45 to 130? Yes.

Q. Do you have figures that would take you back to 1954, 1953, 1952, or 1951?

A. This was about as far as we could go on this because it required an examination of the arrival notices clear back to November 1954, which is tremendous number of cars into Chicago, and that is as far as we were physically able to run it.

Q. You are not able to say whether or not that was an unusual or usual situation.

A. I know of no circumstance that would categorize it as unusual.

Q. Do you know of any circumstance that would indicate to you that it was usual?

A. No. Those are the facts, sir.

Q. Mr. Chartrand, do you recognize that both the New York Central and the river are interested in competing for corn in that area between the New York Central and the river?

A. Yes.

[fol. 837] Q. Do you think that the New York Central should have an opportunity to compete—and I am not taking you at this time to specific levels of rates—in that area.

A. I believe I said that in our statement of position.

Q. You have constructed in your Exhibit 54 something that you call an adjustment of varying amounts which you suggest should be added to the rail rates in reaching the ultimate proposal of 14½ cents from the Kankakee Belt origins. You heard the testimony of the witnesses presented by certain of the protestants to the effect that they transported some of them as high as 98 per cent of the corn they handled direct from the farm to the river?

A. That's correct.

Q. Would you think that that was an actual transportation factor that should be reflected in any rate adjustment?

A. It never has in the past. My answer then is no.

Q. Well, you add trucking costs to the barge factor to arrive at what you call adjustment. Wouldn't it be appropriate then to add it on to the rail factor also?

A. The reason I consider it in connection with the barge price, again here is the New York Central seeking to place its shipping points or elevators on its railroads in a competitive position; I look at that man with that corn that [fol. 838] he has bought, and what would be the proper basis on which he should be able to ship by rail under an equal basis as compared to being forced to go to the river and then barge to Chicago, and I have taken from a pricing standpoint the difference between the two, and the trucking which you have failed to take into consideration, which I think should be considered. Now, that is not original with me.

Q. I think you have answered my question, Mr. Chartand. Do you recognize that there is a factor of elevation in the rail cars when the traffic moves out by rail?

A. Yes.

Q. Would you think that factor should be considered?

A. Well, it isn't spelled out here, and I realize these are New York Central track prices. That is in the boxcar on the railroad, and to which there would be, let's say, 2 cents a bushel from the information that I have gathered direct from that territory for that elevatorman's commission for putting it in that car. However, I also found by direct contact with those people down there that there was a commission of about the same amount allowed to the inland elevator where he dealt with the producer and the corn moved forward via the river. Therefore, one commission which might have the semblance of a buying commission in behalf [fol. 839] of water car, but would offset the handling into the boxcar and the commission of the rail elevator.

Q. Would you appreciate the fact that there would be a cost of operation involved when it is handled through a rail elevator?

A. Oh, yes.

Q. But no cost if it isn't handled through that elevator?

A. That's right. I didn't go to costs. I went to commission charges that I found assessed on each operation.

Q. I would like to direct your attention to Exhibit Number 59, Mr. Chartrand. You have shown some routing situations there. I ask you, are there any routing changes involved in this proceeding?

A. The effect of what has been done—

Q. Just answer my question.

A. Involved in this proceeding?

Q. Yes.

A. Yes.

Q. Are there routine changes involved?

A. Yes.

Q. Are there any routes being added?

A. Added?

Q. Yes.

A. No.

[fol. 840] Q. Hasn't the reshipping rate from Kankakee applied to the same routes that it now applies?

A. Yes.

Q. There has been no change in the routing on the Kankakee reshipping rate.

A. No.

Q. There is involved here a reduction in rates from New York Central Kankakee stations on the west end to Kankakee from the rates that were previously in effect. Now, were the rates that were previously in effect local rates in so far as they—to Kankakee?

A. No, they were local rates to Chicago.

Q. And is the rate, 5½ cent proportional rate, is that also a local rate to Chicago?

A. No, sir.

Q. In the same sense that the other rates were local rates to Chicago?

A. No, sir. It is a proportional rate to Kankakee.

Q. There is no change in the routing in connection with the reshipping rate.

A. From Kankakee.

Q. That's correct.

A. That's right; that's right.

Q. I would like to have you direct your attention to Exhibit Number 61, Mr. Chartrand. I ask you if it isn't [fol. 841] a fact that there are higher rates than on corn

products to CFA destinations from the origin stations involved at the present time.

A. Some.

Q. There are some.

A. Yes.

Q. Directing your attention to Exhibit Number 64, Mr. Chartrand, you have some figures here based upon the 1 per cent waybill studies.

A. Correct.

Q. Do you know what the average distance for each of the commodities shown was in those studies?

A. I don't have them here. This is another national average for whatever the distance was shown.

Q. Let us assume that the average distance found on the 1 per cent study was less than the distance from the west end to New York. Would you expect then that the earnings for the shorter distance would be less than the earnings for a longer distance to New York under normal rate-making theories?

A. Oh, I think that this would come down for longer distances; the graph would come down for longer distances, but it would be well to take a look at them and see. This 50.69 is still awful low.

Q. I am just asking you about this now. Now, you indicate on your exhibit that the earnings portrayed in your graph are via the short line distance.

A. Yes.

Q. Did you ever find an actual route of movement to be as short as the short line distance—I shouldn't ask that, you may have found an exception—

A. I have.

Q. Isn't it generally true that the actual route of movements will exceed the short line distance?

A. Yes, and some of the short tariff routes are very close to the absolute short line distance.

Q. But to the extent that the actual route of movement was shorter—was longer than the short line distance, then you would expect that this reflected actual movements, it would be a lower car mile earnings than you show. That is true. I suggest you check the absolute short line distance from Kankakee to Albany, New York and the New York

Central mileage. I don't think you will find them very much different.

Q. You used this as a criticism of Mr. Herron's exhibit.

A. You are asking me about actual mileage versus absolute short line, and I say in many instances they are very close and sometimes the same, so you would have to consider each on the individual basis.

Q. In no instance would the distance via the actual route [fol. 843] of movement be greater than the earnings via the short line distance.

A. That is true.

Q. And it would be a rare instance where you would find the short line distance and the actual route of movement to be the same. Is that true?

A. I will—

Q. For distances of 700 miles.

A. I will go along with you on this and say, by and large actual tariff routes are greater to some extent than the absolute short line distance.

Q. In comparison of short line distance earnings with actual route of movement earnings, it is not comparing like with like, is it, sir?

A. No, I don't think the 5½ cents and the barge is like with like, either.

Q. Now, Mr. Chartrand, I know your opinion on that. All I want is a simple, fair answer to my question.

A. I think allowances have to be made, yes.

Mr. Murphy: That is all we have of this witness.

Exam. Dahan: Do you have any redirect?

The Witness: No, sir. That completes our case.

Exam. Dahan: Any objection to the receipt in evidence of Exhibits 42 through 64?

(No response.)

[fol. 844]

OFFERS IN EVIDENCE

Exam. Dahan: Exhibits 42 through 64 will be received in evidence.

(Protestant's Exhibits Nos. 24 through 64, Witness Chartrand, were received in evidence.)

Exam. Dahan: 'That completes protestants' case.

Do the respondents have any rebuttal testimony to present?

Mr. Murphy: One witness.

Exam. Dahan: Very well, sir.

L. W. SCHALLER previously sworn, testified further as follows:

Direct examination.

By Mr. Murphy:

Q. Will you state your name, please.

A. L. W. Schaller.

Q. Are you the Mr. Schaller who testified earlier in this proceeding?

A. I am.

Q. And you testified on behalf of whom at that time, sir?

A. Indianapolis Board of Trade and Evans Milling Company at Indianapolis.

Q. Have you had an opportunity to review Exhibit 39 presented here by Witness McClintock?

A. I did.

Q. Have you any comments to make in regard to that [fol. 845] exhibit, sir?

A. In so far as Indianapolis is concerned, I do not think that it reflects a true picture. This exhibit sets forth a fact or endeavors to set forth a fact that the only charge you have on a shipment moving through Indianapolis would be your rail rate. Certainly you can't use the grain in the boxcar. It must be unloaded, it has to be inspected, it has to be elevated, the same as it does in Chicago. The grain moving to Indianapolis east moves to a processor at Indianapolis, who has to unload it, and in every case he has to elevate it.

Now, whether or not he pays some outside concern for that elevation or whether he does it himself, he still has an elevation charge, because your elevator and your mill is not connected physically other than by a conveyer.

If the corn moves into a terminal elevator, they have an elevation charge, both in and out, and in that respect I do not think that this exhibit sets forth a correct picture.

Q. When the corn moves through a terminal elevator at Indianapolis and it is elevated in and out, is that in addition to the elevations by the miller at his elevator?

A. That's right.

Mr. Murphy: That is all we have on direct of this witness, your Honor.

Mr. Freeman: I just have one question.

Cross examination.

By Mr. Freeman:

Q. You are with the Evans Milling Company, are you not?

A. That's right.

Q. And you have bought corn off the Kankakee Belt—

A. Yes, sir.

Q. —for your processing plant.

A. That's right.

Q. Did any of that corn get an elevation at any other elevator than the elevator that you own?

A. Yes, sir.

Q. And what proportion was that?

A. I would say 25 per cent of it we bought out of a terminal elevator at Indianapolis. I do not have the exact number of cars.

Q. Did you buy that on the trading floor at Indianapolis?

A. We either bought it on the trading floor or we bought it on contract, one of the two. Part of it—that out of the terminal elevator wasn't bought on the trading floor. That was bought on contract.

Q. The balance of it, which would be 75 per cent, moved direct to your elevator, which is located next to your processing plant at Indianapolis.

[fol. 847] A. You mean without being unloaded first in the terminal elevator?

Q. Yes.

A. That's right.

Q. And that elevator is physically connected with your processing plant.

A. The elevator at Indianapolis, I would say, is 150 yards north of our corn bins, and the only physical connection is a conveyer belt from the elevator down to the working bins in the mill.

Q. That conveyer is the method by which you get the corn from your elevator to your processing plant.

A. Yes. That is after the corn has been elevated.

Q. Do you pay any more for corn which you get—comes directly to your elevator than you do from corn which you buy from another elevator at Indianapolis?

A. That all depends on the market, the price it is going.

Q. Would you buy it from another elevator at Indianapolis if you could get it cheaper some other way? The other way being direct to your elevator.

A. If we could get the same kind of corn, naturally you would buy it where you could get the best price, where you would buy the cheapest.

Mr. Freeman: That is all.

[fol. 848] Mr. Legg: I have a question.

By Mr. Legg:

Q. Did you not testify in your original testimony that you had bought corn for Evans Milling at Chicago?

A. Yes, we bought corn at Chicago.

Q. Do you know whether any of that corn ever was elevated at Chicago before you bought it?

A. Only an assumption.

Q. You don't know.

A. I assume that it come out of an elevator, and if it came out of an elevator, I presume it had an elevation.

Mr. Legg: I have no further questions.

Exam. Dahan: You are excused.

(Witness excused.)

Mr. Murphy: We have one more witness.

Exam. Dahan: All right.

Mr. Murphy: I am recalling Mr. Graves.

LAWRENCE E. GRAVES previously sworn, testified further as follows:

Direct examination.

By Mr. Murphy:

Q. Did you hear the testimony of Mr. Chartrand this morning?

A. I did.

Q. Did you have an opportunity to see his Exhibit Number 55?

[fol. 849] A. I did.

Q. And hear him suggest that an appropriate rate for blanketing across the west end would be $14\frac{1}{2}$ cents to Kankakee?

A. Right.

Q. Mr. Graves, if the New York Central established a rate of $14\frac{1}{2}$ cents from all of the stations on the west end of Kankakee, would you use that rate?

A. No, we wouldn't buy corn.

Q. Why not, sir?

A. Because it is too high.

Mr. Murphy: I have no further questions, your Honor.

Cross examination.

By Mr. Chartrand:

Q. Mr. Graves, how much too high is it?

A. Let's see, between—9 cents. That is how much too high it is.

Q. Well, I believe that you have been instructed to carry out the philosophy of General Foods with regard to pulling out of that territory if it results in taking business away from any other railroad?

A. I am aware of what Art Scheer stated, the same as you are, and the statements he made in connection with that, yes.

Q. But you wouldn't pull out of the market if it took it [fol. 850] away from the barge lines, would you?

A. No.

Mr. Chartrand: That is all. Thank you.

Exam. Dahan: You are excused.

(Witness excused.)

Mr. Murphy: Nothing further.

Exam. Dahan: Do the parties desire to file briefs?

Mr. Murphy: Yes. I suppose we should—

Exam. Dahan: It is understood the briefs filed will show the proposed findings of facts under which the parties rely.

Mr. Murphy: Yes, under the rules. May we also have a proposed report?

Exam. Dahan: I am going to ask you whether you would like a proposed report.

Mr. Freeman: I assume the New York Central does, and protestants do.

Exam. Dahan: I will show that the parties do desire it. Of course that is up to the Commission, whether they want the examiner to put a report out or not.

Mr. Freeman: May we have some agreement about a special date for briefs?

Exam. Dahan: Yes. Can you come to an agreement between you? I am willing to give you as long as you want.

[fol. 851] Mr. Freeman: We are in a hurry on this, if your Honor please. What time can we expect the transcript.

May we go off the record?

Exam. Dahan: Yes.

(Discussion off the record.)

Exam. Dahan: On the record. The brief date will be April 15, 1958.

Mr. Freeman: May I inquire about a reply brief?

Exam. Dahan: There will be no reply briefs.

Mr. Freeman: You want no reply briefs?

Exam. Dahan: No.

Mr. Freeman: Mr. Murphy has just handed me a set of figures which were requested, showing movements on the Kankakee Belt to stations from Zearing, Illinois to South Bend which have been prepared—which come from

the files of the New York Central. May that be marked for identification?

Exam. Dahan: That may be marked for identification Exhibit Number 65 and will be received in evidence.

Mr. Murphy: With the understanding in the record that these figures do not separate corn from other grain, nor do they break down traffic from stations east of Kankakee and stations west of Kankakee on the Kankakee Belt.

Mr. Freeman: It so states, does it not?
[fol. 852] Mr. Murphy: Yes.

(Joint Exhibit No. 65 was marked for identification.)

OFFER IN EVIDENCE

Exam. Dahan: That will be received.

(Joint Exhibit No. 65 was received in evidence.)

Mr. Murphy: A further request was made by Mr. Freeman for the figures corn originated on the west and during the year 1957, figures January to August were 2411, during the month of September, 16 cars, during the month of November, 108 cars, during the month of December, 146 cars, for a total of 2681 cars on that branch of the railroad during the year 1957.

Exam. Dahan: The hearing is closed.

(Whereupon, at 3:00 p.m., the hearing was closed.)

[fol. 853]

BEFORE THE INTERSTATE COMMERCE COMMISSION

FSA No. 33955

In the Matter of:

CORN AND CORN PRODUCTS, ILLINOIS TO OFFICIAL TERRITORY

Transcript of Hearing—October 29, 1959

Hearing Room B,
Interstate Commerce Commission,
Washington, D. C.,
Thursday, October 29, 1959.

The above-entitled matter came on for oral argument
before Division Two at 10 o'clock a.m.

APPEARANCES:

[fol. 853a] Wilbur S. Legg, Room 2500, 135 S. LaSalle
Street, Chicago, Illinois, appearing for A. L. Mechling
Barge Lines, Inc., Emington Grain Company, Bookwalter
Grain Company, Cullom Cooperative Grain Company, Dale
P. Walsh, Charles Treasure, Griswold Grain Company,
Mazon Farmers Elevator, protestants.

[fol. 854]

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Oral Argument of:

• • • • •
Wilbur S. Legg (Protestants)

925

[fol. 925] ORAL ARGUMENT OF WILBUR S. LEGG

Mr. Legg: May it please the Commission:

I represent the A. L. Mechling Barge Line, who, accord-
ing to these people, are the villain in this piece.

[fol. 932] which commands a premium off the rail and does not command a premium off the barge line.

The other item is the outbound inspection incurred by reason of the fact that we load whole corn out of the elevator at Chicago into the rail car to get it ready to move to a processor. This inspection charge is not incurred any further by the processor when the corn is used directly by the processor as it is at Kankakee, Danville or Indianapolis, because there is no inspection charge on the products that come out.

The total of these figures for the river movement was about 22½ cents. The total for the rail movement was about 10 cents, plus whatever it costs the farmer to get his grain to the rail elevator.

This does not take into account any of the normal disadvantages of barge shipment; that is, the large accumulation of inventories, the necessity to provide insurance that the shipper bears the cost of; it doesn't take account of delays on account of bad weather; it does appear, however, that taking into account the under-statements in the river costs that we did make for safety's sake, and the farmer's cost of getting his grain from the farm to the elevator, there must be a difference between the barge rate and the rail rate of from 10 cents to 10½ cents per hundred-weight.

Commr. McPherson: Sorry to interrupt you there. [fol. 933] Are you saying then that the rail is the low-cost carrier?

Mr. Legg: No, sir, I am not. The barge line is clearly the low-cost carrier.

Commr. McPherson: In the transportation charges—

Mr. Legg: It is in the transportation charges, itself. We have a cost of operation of about 4.4 cents per hundred-weight, whereas the rail fully-distributed costs are in the neighborhood of 14.4 cents per hundredweight.

Commr. McPherson: In these other charges—

Mr. Legg: These are shipper costs that they incur and that we think our inherent low-cost advantage should be preserved in order to provide for. Otherwise, we lose our market for our transportation services.

Commr. Hutchinson: Your operating cost figure that you just gave is—

Mr. Legg: 4.4 cents per hundredweight. There is a cost study in the record which is very clear on that.

Commr. Hutchinson: That is where the difficulty comes, is it, or not, that that cost, operating cost figure, doesn't cover as much service as the cost figure on the other side covers, is that it?

Mr. Legg: I would say it covers probably as much service, but there are a lot more services to handle barge corn than there are to handle rail corn.

Commr. McPherson: The question is, overall, who is the [fol. 934] low-cost carrier?

Mr. Legg: I think probably we still are, but then it would be a very close case, if you took that view. I think you should take the view, though, that if we can provide a low-cost service of transportation, then whatever services are incurred by the shipper beyond that, we have to take care of on a competitive basis. But they won't be incurred by the shipper if we cease to be low-cost by as much as we are now.

I might say that is a real danger, too, because if we lose a substantial volume of our business here, our unit costs are obviously going to rise, because this movement by Mechling is pretty much in specially-built barges that can't economically be used in other services.

The other point that the gentlemen on my right make is that this really hasn't hurt us. They have taken four and a half million bushels of corn per year away from us, and it doesn't make a bit of difference, we have had more corn than we ever had before. They derive that argument from a comparison of figures for the years 1956, basically, and 1957, the first eight months of each year.

In 1956, the five and a half-cent rate was not in effect. In 1957, it was.

Commr. Hutchinson: Excuse the interruption. So I might be clear:

[fol. 934a] Secretary's Certificate to foregoing transcript (omitted in printing).

[fol. 935]

SUPREME COURT OF THE UNITED STATES

Nos. 746 & 747—October Term, 1962

A. L. MECHLING BARGE LINES, INC., et al., Appellants,

vs.

UNITED STATES, et al.; and

BOARD OF TRADE OF THE CITY OF CHICAGO, Appellant,

vs.

UNITED STATES, et al.

**Appeals from the United States District Court for the
Northern District of Illinois.**

ORDER NOTING PROBABLE JURISDICTION—June 17, 1963

The statements of jurisdiction in these cases having been submitted and considered by the Court, probable jurisdiction is noted. The cases are consolidated and a total of two hours is allowed for oral argument.